रजिस्टर्ड नं० पी० एस० एम० 13.

राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 22] शिमला, शनिवार, 9 मार्च, 1974/18 फाल्गुन, 1895 [संख्या 1

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9 मार्च, 1974/18 फाल्गुन, 1895 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुई

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 3-2/74-Elec., dated the 4th March, 1974. Dev	Election Department	Republication of the Government of India, Ministry af L Justice and Company Affairs (Legislative Departme Notification No. F. 13 (3)/74-Leg. II, dated the March, 1974.
No. 1-10/68-Home (B), dated the 27th/28th February, 1974.	Home Department	Declaring essential services connected with Fire Servi Fire Fighting.
No 2-10/71-Panch., dated the 28th February, 1974.	Panchayati Raj Department	Corrigendum to notification of even No., dated 21-12-73.
No. 3-2/74-Elec., dated the 4th March, 1974.	Election Department	Republication of the Election Commission of India's Notif tions No. 318/74(1), 318/74(2), 318/74(3) and 318/74 all dated the 4th March, 1974 together with t Hindi version.
No. 3-28/73-Elec., dated the 1st March, 1974,	-do-	Publication of Election Commission of India's Notificat No. 56/7 -VI, dated the 29th January, 1974 together w its Hindi version.
No. 3-28/73-Elec., dated the 1st March, 1974.	-do-	Publication of Election Commission of India's Notificat No. 56/73-V, dated the 11th January, 1974, together w its Hindi version.
No. 21-1/73-TPT, dated the 4th March, 1974.	Transport Department	Publishing the schems approved by the Central Governm under sub-section (2) of section 68-D of the Mo Vehicles Act, 1939 (Central Act No. 4 of 1939).
No. 2-10/71-Panch., dated the 2nd March, 1974.	Panchayati Raj Department	Order for the assessment of local rates to the Collecto District concerned.
No. 11-5/72-Coop (F&S), dated the 2nd March, 1974.	Food and Supplies Department	The Himachal Pradesh Maize (Export Control) (First Ame ment) Order, 1973.

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार

PERSONNEL (A) DEPARTMENT
NOTIFICATION

Simla-2, the 22nd February, 1974

No. 5-1/73-DP-Apptt.-I(Vol. II).—The Governor, Himachal Pradesh is pleased to place the services of Shri H. S. Dubey, I.A.S. Himachal Pradesh Commissioner-*cum-ex-officio* Secretary to the Government of Himachal Pradesh at the disposal of the Government of India, on deputation basis for appointment as Joint Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.

U. N. SHARMA,
Chief Secretary.

PERSONNEL (A-I) DEPARTMENT
NOTIFICATION

Simla-2, the 25th February, 1974

No. 3-38 67-DP-Apptt. (I).—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor, Himachal Pradesh is pleased to appoint Shri S. Nigam. HPAS, Traffic Magistrate, Simla and Shri T. D. Singh, HPAS, Mobile Magistrate, with headquarters at Mandi to be the Magistrate First Class with all the powers of a Magistrate First Class, under the said Code, to be exercised within the local limits of whole of Himachal Pradesh excluding the areas added to Himachal Pradesh under section 5 of the punjab Re-organisation Act, 1966, with immediate effect.

Simla-2, the 26th February, 1974

No. 3-73/63-Apptt.—On attadining the age of 58 years, Shri P.D. Panta, member of the Himachal PradeshP olice Service, presently posted as Dy. Supdt. of Police, Anti-Corruption Unit, Simla, shall retire from Government service with effect from the afternoon of 3rd March, 1974.

A. K. GOSWAMI,
Joint Secretary.

EDUCATION DEPARTMENT
NOTIFICATION

Simla-2, the 26th February, 1974

No. 1-130 69-Sectt. Edu. I.—The Governor, Himachal Pradesh is pleased to retire Shri N. L. Gupta, District Education Officer, Solan, on leave preparatory to retirement, on his attaining the age of superannuation w. e. f. 4-4-1974 afternoon.

By order.
C. M. CHATURVEDI,
Secretary.

FOREST DEPARTMENT
NOTIFICATIONS

Simla-2, the 19th February, 1974

No. 6-10/72-SF.—Whereas it appears to the Governor of Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for the construction of Saloni-Kilar Jeepable road, Tehsil Churah, District Chamba, it is hereby declared that the land described in the specification below is required for the above purpose.

2. This declaration is made under the provisions of section 6 of the land Acquisition Act, 1894 to all whom it my concern and under the provisons of section 7 of the said Act, the Collector, Land Acuisition, Chamba district, Himachal Pradesh is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Chamba district, Chamba, Himachal Pradesh.

SPECIFICATION

District: CHAMBA *Tehsil:* CHURAH

Village	Khasra No.	Area Big.	Bis.	Bisw.
	Pargana: MANJIR			
GOTHAN	71/1	0	2	0
	73/1	0	1	0
	400/1	0	5	0
KOTLA AHNI	401/1	0	4	0
	97/1	0	2	0
	123/1	0	3	0
	209/1	0	9	0
	222/1	0	1	0
	208/1	0	3	0
	203/1	0	12	0
	195 1	0	6	0
	960/194/1	0	10	0
	961/194/1	0	1	0
	957/192/1	0	2	0
	958/192/1	0	6	0
	956/192/1	0	0	7
	193/1	0	1	0
	704/1	1	9	0
	780/1	0	6	0
	777/1	0	2	0
	778/1	0	1	0
	774/1	1	4	0
	901/1	0	8	0
	948/944/1	2	1	0
	21	0	1	0
	Total ..	9	0	7
			or say	
		9	0	0

Simla-2, the 28th February, 1974

No. 8-5/73-SF.—In pursuance of the provisions of clause (*b*) of section 38 of the Indian Forest Act, 1927 and all other powers enabling him in this behalf, the Governor of Himachal Pradesh is pleased to declare that the land specified in the schedule appended to Himachal Pradesh Government Notification of even number, dated 27-2-74 shall be closed for regeneration for a period of 20 years with effect from the date of this notification or for such

shorter period as may be found sufficient and that the rights of private persons in or over the said land shall be suspended during the said period.

By order,
P. K. MATTOO,
Secretary.

HEALTH AND FAMILY PLANNING DEPARTMENT

NOTIFICATION

Simla-2, the 26th February, 1974

No. 1-5671-H&FP.—The Governor, Himachal Pradesh regret to announce the death of Dr. Ashok Kumar Juneja Civil Assistant Surgeon, Grade I, Medical Officer, Civil Hospital, Dharamsala, on the 16th December, 1973 (A. N.), which was caused due to accidental fall.

A. D. DHANTA,
Under Secretary.

INDUSTRIES DEPARTMENT

NOTIFICATION

Simla-2, the 22nd February, 1974

No. 1-7/72-SI (TS).—The Governor of Himachal Pradesh is pleased to constitute State Level Committee consisting of the following in order to settle all claims of transport subsidy arising in the Pradesh, under the Transport Subsidy Scheme, 1971, of the Central Government:—

1. Director of Industries, Himachal Pradesh .. *Chairman*
2. Deputy Secretary (Industry) to the Government of Himachal Pradesh .. *Member*
3. Joint Secretary (Finance) to the Government of Himachal Pradesh .. *Member*
4. Nominee of Ministry of Industrial Development, Government of India, New Delhi .. *Member*

2. The Committee will continue to function till reconstituted.

By order,
P. K. MATTOO,
Secretary.

PUBLIC WORKS DEPARTMENT

NOTIFICATION

Simla-2, the 19th January, 1974

No. 9-12/73-PW(B).—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at he public expense for a public purpose, namely for the Construction of road Tawi to Police Berrier, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Simla-1.

SPECIFICATION

District: SIMLA *Tehsil:* SIMLA

Village	Khasra No.	Area Big.	Bis
KARARRO	126	0	2
	139	1	0
	123	0	2
	124	0	3
	127	0	2
	128	0	2
	151	0	7
	152	0	8
	153	0	9
	154	0	5
	155	0	8
	163	0	3
	165	5	0
	162	0	15
	159	0	5
	158	0	10
	160	0	15
	147	0	13
	148	0	10
	161	0	10
	145	0	5
	142	0	4
	144	1	0
	143	0	2
	132	1	0
	133	1	0
	134	1	10
	76	0	18
	73	1	0
	72	1	0
	70	2	0
	71	1	0
	60	1	0
	61	0	1
	62	1	0
	59	4	0
	21	1	0
	42	3	0
	37	0	18
	146	0	2
	Total ..	34	9

By order,
H. S. DUBEY,
Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और ज़िला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

INDUSTRIES DEPARTMENT

FORM 'Q'

NOTICE UNDER SECTION 24 OF THE ACT

Mandi, the 15th February, 1974

No. Ind. 9/Loan/362/65-1836-4.—Whereas a notice was served on Shri Dagu Ram s/o Shri Paras Ram near M/s Thakur Sewing Machine Co., Seri Bazar, Mandi Town on 18-9-1970 under section 23 of the Himachal Pradesh State Aid to Industries Act, 1971, calling upon the said Shri Dagu Ram to pay to me the sum of Rs. 448.05 before 21 days and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 707-25 is due from the said Shri Dagu Ram and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

The loan was granted against the Credit Worthiness Certificate issued by Shri Sukh Ram Sharma M.L.A., Mandi Sadar.

S. D. S. JASWAL,
District Industries Officer, Mandi.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेन्शल कमिश्नर तथा कमिश्नर आफ़ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

EXCISE AND TAXATION DEPARTMENT

NOTIFICATIONS

Simla-4, the 28th February, 1974

No. 7-51/73 E.&T.—In exercise of the powers conferred by section 59 of the Punjab Excise Act (1 of 1914) applied to the areas comprised in Himachal Pradesh immediately before 1st November, 1966 and by virtue of the powers of the Financial Commissioner under section 9 of the said Act, read with the Himachal Pradesh (Excise Powers and Appeal) Orders, 1965, I, Jit Ram Thakur, Excise & Taxation Commissioner, Himachal Pradesh, hereby direct that the following amendments shall be made in the Punjab Liquor Licence Rules, as applied to the said areas of Himachal Pradesh, with immediate effect:—

AMENDMENTS

(1) For"." occuring at the end of clause (*ii*) of condition (29) (*b*) of Rule 39, ":" shall be substituted; and

(2) After clause (*ii*) *ibid* so amended, the following proviso shall be inserted:—

"Provided that there shall be no restrictions to sell Gin of 35 degrees under proof out of the duty paid stock lying undisposed of for a period of three months from the date of insertion of this proviso".

Simla-4, the 28th February, 1974

No. 7-51/73-E.&T.—In exercise of the powers conferred by secfion 59 of the Punjab Excise Act (1 of 1914), as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and by virtue of the powers of the Financial Commissioner under section 9 of the said Act, read with the Punjab Excise Powers and Appeal order, 1956, I, Jit Ram Thakur, Excise and Taxation Commissioner, Himachal Pradesh hereby direct that the following amendments shall be made in the Punjab Liquor License Rules, as applied to the said areas of Himachal Pradesh, with immediate effect:—

AMENDMENTS

(1) For"." occuring at the end of sub-clause (*ii*) of clause (*b*) of condition 28 of Rule 37, ";" shall be substituted, and

(2) After sub-clause (*ii*) *ibid* so amended, the following proviso shall be inserted:—

"Provided that there shall be no restrictions to sell Gin of 35 degrees under proof out of the duty paid stock lying undisposed of for a period of three months from the date of insertion of this proviso."

JIT RAM THAKUR,
Excise and Taxation Commissioner.

भाग 4—स्थानीय स्वायत शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Chief Judicial Magistrate with the powers of Sub-Judge 1st Class, Kangra at Dharamsala

CIVIL SUIT No. 22 OF 1972

Kirpa Ram *Vs.* Vishwa Nath

Versus—Ram Kishor s/o Bija, r/o Daroh, Tehsil Palampur.

WHEREAS the Plantiff (Kirpa Ram) has filed a suit for specific performance of contract, dated 18-12-71/3-1-72 in this Court against the above named defendant. In this behalf notices/summons have been issued several times against the above named defendant, but he is evading the services or has concealed himself. It has been proved to the satisfaction of this court that the above named defendant cannot be served through ordinary way, hence this proclamation under Order 5, Rule 20, C.P.C. is issued against him that he should appear in this court on 8-4-1974 personally or through pleader or any authorised agent, failing which *ex parte* proceedings shall be taken against him.

Given under my hand and the seal of the court this 2nd day of February, 1974.

Seal.

A. L. VAIDYA,
Chief Judicial Magistrate-cum-Senior Sub-Judge,

भाग 6—भारतीय राजपत्र में से पुनः प्रकाशन

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 22nd February, 1974

No. LL. R-E (9) 2/74.—The following Acts recently passed by the Parliament which have already been published in the Gazette of India, Extraordinary, Part II, Section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Delhi Urban Art Commission Act, 1973 (Act No. 1 of 1974).
2. The Code of Criminal Procedure Act, 1973 (Act No. 2 of 1974).

JOSEPH DINA NATH,
Deputy Secretary.

Assented to on 1-1-1974.

THE DELHI URBAN ART COMMISSION ACT, 1973
(ACT NO. 1 OF 1974)

AN

ACT

to provide for the establishment of the Delhi Urban Art Commission with a view to preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Urban Art Commission Act, 1973.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(*b*) "building operations" includes rebuilding operations, structural alterations of, or additions to, buildings and other operations normally undertaken in connection with the construction of buildings;

(*c*) "Commission" means the Delhi Urban Art Commission established under section 3;

(*d*) "Delhi" means the Union territory of Delhi;

(*e*) "development" with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under, land or the making of any material change in any building or land and includes re-development;

(*f*) "engineering operations" includes the formation or laying out of means of access to a road or the laying out of means of water supply;

(*g*) "local body" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 (66 of 1957), the New Delhi Municipal Committee constituted under the Punjab Municipal Act, 1911 (Punjab Act III of 1911), as in force in Delhi, the Delhi Development Authority constituted under the Delhi Development Act, 1957 (61 of 1957), or any other local authority concerned with urban development of Delhi;

(*h*) "member" means a member of the Commission and includes its Chairman;

(*i*) "public amenity" includes road, water supply, street lighting, drainage, sewerage, public works and such other convenience as the Central Government may, by notification in the Official Gazette, specify to be a public amenity for the purposes of this Act;

(*j*) "regulation" means a regulation made under this Act by the Commission;

(*k*) "rule" means a rule made under this Act by the Central Government.

CHAPTER II

ESTABLISHMENT OF THE COMMISSION

3. *Establishment of the Commission.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Commission by the name of the Delhi Urban Art Commissisn.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and shall by the said name sue or be sued.

4. *Composition of the Commission.*—The Commission shall consist of a Chairman and such number of other members, being not less than two and not more than four as the Central Government may, by notification in the Official Gazette, appoint from amongst persons who, in the opinion of the Central Government, have sensibility and interest in the plastic and visual arts and urban environment, or possess special knowledge or practical experience in respect of architecture or art.

5. *Terms and conditions of service of members.*—(1) A member shall, unless his appointment is terminated earlier by the Central Government, hold office for a term of three years from the date of his appointment.

(2) A person who holds, or who has held, office as Chairman or member shall be eligible for re-appointment to that office once, but only once.

(3) A member may resign his office by writing under his hand addressed to the Central Government, but he shall continue in office until his resignation is accepted by the Central Government.

(4) A casual vacancy caused by the resignation of a member under sub-section (3) or for any other reason, shall be filled by fresh appointment.

(5) A member may be appointed either as a whole-time or part-time members as the Central Government thinks fit.

(6) Subject to the foregoing provisions, the terms and conditions of service of the Chairman and other members shall be such as may be prescribed by rules.

6. *Meetings of the Commission.*—The Commission shall meet at such times and places and shall observe such rules of procedure in regard to the transanction of

business at its meetings as may be prescribed by regulations.

7. *Vacancies amongst members or defect in constitution not to invalidate acts or proceedings of the Commission.* No act or proceeding of the Commission shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Commission.

8. *Temporary association of persons with the Commission for particular purposes.*—(1) The Commission may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Commission under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Commission, and shall not be a member for any other purpose.

9. *Appointment of staff of the Commission.*—(3) The Central Government shall, in consultation with the Commission, appoint a Secretary of the Commission who shall hold office during the pleasure of the Central Government:

Provided that the first appointment of the Secretary may be made by the Central Government without consultation with the Commission.

(2) The terms and conditions of service of the Secretary shall be such as may be prescribed by rules.

(3) Subject to any rules, the Commission may appoint such other employees as it may think necessary for the efficient performance of its functions under this Act, and the terms and conditions of service of the employees so appointed shall be such as may be determined by regulations.

10. *Authentication of orders and other instruments of the Commission.* —All orders and decisions and other instruments of the Commission shall be authenticated by the signature of the Secretary or any other officer of the Commission duly authorised by it in this behalf.

CHAPTER III

Functions and Powers of the Commission

11. *Functions of the Commission.*—(1). It shall be the general duty of the Cmmission to advise the Central Government in the matter of preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi and to provide advice and guidance to any local body in respect of any project of building operations or engineering operations or any development proposal which affects or is likely to affect the sky-line or the aesthetic quality of surroundings or any public amenity provided therein.

(2) Subject to the provisions of sub-section (1), it shall be the duty of the Commission to scrutinise, approve, reject or modify proposals in respect of the following matters, namely:—

(*a*) development of district centres, civic centres, areas earmarked for Government administrative buildings and for residential complexes, public parks and public gardens;

(*b*) re-development of the area within the jurisdiction of New Delhi Municipal Committee including Connaught Place Complex and its environs, Central Vista, the entire bungalow area of Lutyen's New Dehli, and such other areas as the Central Government may, by notification in the Official Gazette, specify;

(*c*) plans, architectural expressions and visual appearance of new buildings in the centres, areas, parks and gardens specified in clauses (*a*) and (*b*) including selections of models for statues and fountains therein;

(*d*) re-development of areas in the vicinity of Jama Masjid, Red Fort, Qutab, Humayun's Tomb, Old Fort, Tuglakabad and of such other places of historical importance as the Central Government may, by notification in the Official Gazette, specify;

(*e*) conservation, preservation and beautification of monumental buildings, public parks and public gardens ioncluding location or installation of statues or fountains therein;

(*f*) under-passes, over-passes and regulations of street furniture and hoardings;

(*g*) location and plans of 'power houses, water towers, television and other communication towers and other allied structures;

(*h*) any other project or lay-out which is calculated to beautify Delhi or to add to its cultural vitality or to enhance the quality of the surroundings thereof;

(*i*) such other matters as may be prescribed by rules.

Explanation.—For the purposes of this sub-section,—

(*i*) "civic centre" means the headquarters of a local body comprising therein its office buildings and buildings intended for cultural activities;

(*ii*) "Connaught Place Complex" means the area comprising Connaught Place and its extension measuring approximately 140 hectares, being the area described as Zone D-I (Revised) in the Delhi Master Plan;

(*iii*) "district centre" means a self-contained unit created in the Delhi Master Plan comprising areas for retail shopping, general business, commercial and professional offices, forwarding, booking and Government offices, cinemas, restaurants and other places of entertainment.

(3) Without prejudice to the provisions contained in sub-section (1) and sub-section (2), the Commission may *suo motu* promote and secure the development, re-development or beautification of any areas in Delhi in respect of which no proposals in that behalf have been received from any local body.

12. *Duty of local bodies to refer development proposals, etc. to the Commission.*—Notwithstanding anything contained in any other law for the time being in force, every local body shall, before according aproval in respect of any building operations, engineering operations or development proposals referred to in sub-section (1) of section 11 or intended to be undertaken in any area or locality specified in sub-section (2) of that section, refer the same to the Commission for scrutiny and the decision of the Commission inrespect thereof shall be binding on such local body.

13. *Appeal to the Central Government in certain cases.*—If any local body is aggrieved by a decision of the Commission in respect of any building operation, engineering operation or development proposal intended to be undertaken or notified, as the case may be, by that local body and referred to the Commission under section 12, the local body may, within sixty days

from the date of such desision, prefer an appeal to the Central Government, and the Central Government may pass such order thereon as it deems iit.

14. *Power to revise decision in certain cases.*—Nothing contained in this Act shall preclude the Central Government from calling for and examining, on its own motion, if it considers it necessary so to do in the public interest, any case in which a decision has been made by the Commission under section 12 but no appeal lies thereto, and passing such order thereon as it thinks, fit:

Provided that no such order shall be made prejudicially affecting any person except after giving him an opportunity of making a representation in the matter.

15. *Powers of the Commission.*—For the purpose of performing its functions under this Act, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him;
(*b*) requiring discovery and production of any documents;
(*c*) receiving evidence on affidavits;
(*d*) requisitioning any public record or copies thereof from any office;
(*e*) any other matter which may be prescribed by rules.

CHAPTER IV

Fund, Accounts and Audit

16. *Payment to the Commission.*—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Commission in each financial year such sums as the Central Government may consider necessary for the performance of the functions of the Commission under this Act.

17. *Fund of the Commission.*—(1) The Commission shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government shall be carried to the fund of the Commission and all payments by the Commission shall be made therefrom.

(2) The Commission may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Commission.

(3) All moneys in the fund shall be deposited in such bank or invested in such manner as may, subject to the approval of the Central Government, be decided by the Commission.

18. *Budget.*—The Commission shall prepare, in such form and within such time, each year as may be prescribed by rules, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

19. *Annual report.*—The Commission shall prepare once every year, in such form and within such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Central Government, and the Central Government shall cause every such report to be laid before the both Houses of Parliament.

20. *Accounts and audit.*—(1) The Commission shall cause to be maintained such books of accounts and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed by rules.

(2) The Commission shall, as soon as may be after closing its annual accounts, prepare a statement of accounts in such form as may be prescribed by rules, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General of India, determine.

(3) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The annual accounts of the Commission together with the audit teport thereon shall be forwarded to the Central Government, and the Central Government shall cause the same to be laid before both Houses of Parliament and shall also forward a copy of the audit report to the Commission for taking appropriate action on the matters arising out of the audit report.

CHAPTER V

Miscellaneous

21. *Returns and information.*—The Commission shall furnish to the Central Government such returns or other information with respect to its fund or activities as the Central Government may, from time to time, require.

22. *Power to exempt.*—The Central Government may, subject to such conditions as may be prescribed by rules in this behalf, exempt any building, building operation or engineering operation which has been designed as a result of an architectural competition, from the operation of all or any of the provisins of this Act.

23. *Delegation of powers.*—The Commission may, by general or special order in writing, delegate to the Chairman or any other member or any officer of the Commission, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary for the efficient running of the day-to-day administration of the Commission.

24. *Members and officers of the Commission to be public servants.*—All members and officers of the Commission shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

25. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against any member or officer of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

26. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the salaries, if any, allowances and other terms and conditions of service of members of the Commission;
(*b*) the terms and conditions of service of the Secretary of the Commission;

(*c*) the matters in respect of which the Commission may tender advice to the Central Government under clause (*i*) of sub-section (2) of section 11;

(*d*) the form in which, and the time within which, the budget and annual report of the Commission may be prepared and forwarded to the Central Government;

(*e*) the form and manner in which the accounts of the Commission may be maintained, and the time at which, and the manner in which, such accounts may be audited;

(*f*) the returns and information which the Commission may be required to furnish to the Central Government;

(*g*) the conditions subject to which any building, building operation or engineering operation, designed as a result of an architectural competition, may be exempted;

(*h*) any other matter which has to be or may be prescribed by rules.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. *Power to make regulations.*—The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder for—

(*a*) regulating the meetings of the Commission and the procedure for conducting business thereat;

(*b*) regulating the manner in which and the purposes for which persons may be associated with the Commission under section 8;

(*c*) determining the terms and conditions of service of persons appointed by the Commission under sub-section (3) of section 9;

(*d*) any other matter which has to be or may be prescribed by regulations.

Assented to on 25-1-1974

THE CODE OF CRIMINAL PROCEDURE ACT, 1973

(ACT NO. 2 OF 1974)

AN

ACT

to consolidate and amend the law relating to Criminal Procedure.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Code of Criminal Procedure, 1973.

(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof, shall not apply—

(*a*) to the State of Nagaland;

(*b*) to the tribal areas;

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

Explanation.—In this section, "tribal areas" means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong.

(3) It shall come into force on the 1st day of April, 1974.

2. *Definitions.*—In this Code, unless the context otherwise requires,—

(*a*) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;

(*b*) "charge" includes any head of charge when the charge contains more heads than one;

(*c*) "cognizable offence" means an offence for which, and "cognizable case" means a case in which a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;

(*d*) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

(*e*) "High Court" means,—

(*i*) in relation to any State, the High Court for that State;

(*ii*) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law that High Court;

(*iii*) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(*f*) "India" means the territories to which this Code extends;

(*g*) "inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court;

(*h*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;

(*i*) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;

(*j*) "local jurisdiction", in relation to a Court or

Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code;

(*k*) "metropolitan area" means the area declared, or deemed to be declared, under section 8, to be a metropolitan area;

(*l*) "non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

(*m*) "notification" means a notification published in the Official Gazette;

(*n*) "offence" means any act or ommission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871);

(*o*) "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police office so present;

(*p*) "place" includes a house, building, tent, vehicle and vessel;

(*q*) "pleader", when used with reference to any proceeding in any means Court, a person authorised by or under any law for the time being in force, to practise in such Court, and includes any other person appointed with the permission of the court to act in such proceeding;

(*r*) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;

(*s*) "police station" means any post or place declared generally or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf;

(*t*) "prescribed" means prescribed by rules made under this Code;

(*u*) "Public Prosecutor" means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor;

(*v*) "sub-division" means a sub-division of a district;

(*w*) "summons case" means a case relating to an offence, and not being a warrant-case;

(*x*) "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(*y*) words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in that Code.

3. *Construction of references.*—(1) In this Code,—

(*a*) any reference, without any qualifying words, to a Magistrate, shall be construed, unless the context otherwise requires,—

(*i*) in relation to an area outside a metropolitan area, as a reference to a Judicial Magistrate;

(*ii*) in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(*b*) any reference to a Magistrate of the second class shall, in relation to an area outside a metropolitan area, be construed as a reference to a Judicial Magistrate of the second class, and, in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(*c*) any reference to a Magistrate of the first class shall,—

(*i*) in relation to a metropolitan area, be construed as a reference to a Metropolitan Magistrate exercising jurisdiction in that area,

(*ii*) in relation to any other area, be construed as a reference to a Judicial Magistrate of the first class exercising jurisdiction in that area;

(*d*) any reference to the Chief Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Chief Metropolitan Magistrate exercising jurisdiction in that area.

(2) In this Code, unless the context otherwise requires, any reference to the Court of a Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Court of the Metropolitan Magistrate for that area.

(3) Unless the context otherwise requires, any reference in any enactment passed before the commencement of this Code,—

(*a*) to a Magistrate of the first class, shall be construed as a reference to a Judicial Magistrate of the first class;

(*b*) to a Magistrate of the second class or of the third class, shall be construed as a reference to a Judicial Magistrate of the second class;

(*c*) to a Presidency Magistrate or Chief Presidency Magistrate, shall be constured as a reference, respectively, to a Metropolitan Magistrate or the Chief Metropolitan Magistrate;

(*d*) to any area which is included in a metropolitan area, as a reference to such metropolitan area, and any reference to a Magistrate of the first class or of the second class in relation to such area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in such area.

(4) Where, under any law, other than this Code, the functions exercisable by a Magistrate relate to matters—

(*a*) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Code, be exercisable by a Judicial Magistrate; or

(*b*) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

4. *Trial of offences under the Indian Penal Code and other laws.*—(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

5. *Saving.*—Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

6. *Classes of Criminal Courts.*—Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:—

(*i*) Courts of Session;
(*ii*) Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;
(*iii*) Judicial Magistrates of the second class; and
(*iv*) Executive Magistrates.

7. *Territorial divisions.*—(1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions division shall, for the purposes of this Code, be a district or consist of districts:

Provided that every metropolitan area shall, for the said purposes, be a separate sessions division and district.

(2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.

(3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

(4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, shall be deemed to have been formed under this section.

8. *Metropolitan areas.*—(1) The State Government may, by notification, declare that, as from such date as may be specified in the notification, any area in the State comprising a city or town whose population exceeds one million shall be a metropolitan area for the purposes of this Code.

(2) As from the commencement of this Code, each of the Presidency-towns of Bombay, Calcutta and Madras and the city of Ahamedabad shall be deemed to be declared under sub-section (1) to be a metropolitan area.

(3) The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area but the reduction or alteration shall not be so made as to reduce the population of such area to less than one million

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State Government may, by notification, specify in this behalf, cease to be a metropolitan area; but notwithstanding such cesser, any inquiry, trial or appeal pending immediately before cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

(5) Where the State Government reduces or alters, under sub-section (3), the limits of any metropolitan area, such reduction or alteration shall not affect any inquiry, trial or appeal pending immediately before such reduction or alteration before any Court or Magistrate, and every such inquiry, trial or appeal shall continue to be dealt with under this Code as if such reduction or alteration had not taken place.

Explanation.—In this section, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

9. *Court of Session.*—(1) The State Government shall establish a Court of Session for every sessions division.

(2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.

(3) The High Court may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in a Court of Session.

(4) The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

(5) Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.

(6) The Court of Session shall ordinarily hold its sitting, at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.

Explanation.—For the purposes of this Code, "appointment" does not include the first appointment, posting or promotion of a person by the Government to any service, or posts in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

10. *Subordination of Assistant Sessions Judges.*—(1) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction.

(2) The Sesssion Judge may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges.

(3) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistarte, and every such Judge or Magistrate shall be deemed to have jurisdiction to deal with an such application.

11. *Courts of Judicial Magistrates.*—(1) In every district (not being a metropolitan area), there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the

High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

12. *Chief Judicial Magistrate and Additional Chief Judicial Magistrate etc.*—(1) In every district (not being a metropolitan area), the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate.

(2) The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(3) (*a*) The High Court may disignate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(*b*) Subject to the general contral of the Chief-Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise, such powers of supervision and control over the work of the Judicial Magistrates, (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

13. *Special Judicial Magistrates.*—(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate of the second class, in respect to particular cases or to particular classes of cases or to cases generally, in any district, not being a metropolitan area:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrate shall be called Special Judicial Magistrates and shall be appointed for such terms, not exceeding one year at a time, as the High Court may, by general or special order, direct.

14. *Local Jurisdiction of Judicial Magistrates.*—(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code.

(2) Except as otherwise provided by such definition, the Jurisdiction and powers of every such Magistrate shall extend throughout the district.

15. *Subordination of Judicial Magistrates.*—(1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate, shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2) The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Judicial Magistrates subordinate to him.

16. *Courts of Metropolitan Magistrates.*—(1) In every metropolitan area, there shall be established as many Courts of Metropolitan Magistrates, and at such places, as the State Government may, after consultation with the High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

17. *Chief Matropolitan Magistrate and Additional Chief Metropolitan Magistrates.*—(1) The High Court shall, in relation to every metropolitan area within its local jurisdiction, appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such metropolitan area.

(2) The High Court may appoint any Metropolitan Magistrate to be an Additional Chief Metropolitan Magistrate, and such Magistrate, shall have all or any of the powers of a Chief Metropolitan Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

18. *Special Metropolitan Magistrates.*—(1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases or to cases generally, in any metropolitan area within its local jurisdiction:

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Metropolitan Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

(3) Notwithstanding anything contained elsewhere in this Code, a Special Metropolitan Magistrate shall not impose a sentence which a Judicial Magistrate of the second class is not competent to impose outside the metropolitan area.

19. *Subordination of Metropolitan Magistrates.*—(1) The Chief Metropolitan Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions Judge; and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

(2) The High Court may, for the purposes of this Code, define the extent of the subordination, if any, of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate.

(3) The Chief Metropolitan Magistarate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

20. *Executive Magistrates.*—(1) In every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force.

(3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of the State Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

(5) Nothing in this section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a metropolitan area.

21. *Special Executive Magistrates.*—The State Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates, as it may deem fit.

22. *Local Jurisdiction of Executive Magistrates.*—(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

23. *Subordination of Executive Magistrates.*—(1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution or business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

24. *Public Prosecutors.*—(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor for conducting, in such Court, any prosecution, appeal or other proceeding on behalf of the Central or State Government, as the case may be.

(2) For every district the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district.

(3) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons who are, in his opinion, fit to be appointed as the Public Prosecutor or Additional Public Prosecutor for the district.

(4) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears on the panel of names prepared by the District Magistrate under sub-section (3).

(5) A person shall only be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2), if he has been in practice as an advocate for not less than seven years.

(6) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, an advocate who has been in practice for not less than ten years, as a Special Public Prosecutor.

25. *Assistant Public Prosecutors.*—(1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.

(2) Save as otherwise provided in sub-section (3), no police officer shall be eligible to be appointed as an Assistant Public Prosecutor.

(3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case:

Provided that a police officer shall not be so appointed—

(*a*) if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or

(*b*) if he is below the rank of Inspector.

CHAPTER III

POWER OF COURTS

26. *Courts by which offences are triable.*—Subject to the other provisions of this Code,—

(*a*) any offence under the Indian Penal Code (45 of 1860) may be tried by—
  (*i*) the High Court, or
  (*ii*) the Court of Session, or
  (*iii*) any other Court by which such offence is shown in the First Schedule to be triable;

(*b*) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by—
  (*i*) the High Court, or
  (*ii*) any other Court by which such offence is shown in the First Schedule to be triable.

27. *Jurisdiction in the case of juveniles.*—Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

28. *Sentences which High Courts and Sessions Judges may pass.*—(1) A High Court may pass any sentence authorised by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding

ten years.

29. *Sentences which Magistrates may pass.*—(1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees, or of both.

(3) The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of both.

(4) The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

30. *Sentence of imprisonment in default of fine.*—(1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term—

(*a*) is not in excess of the powers of the Magistrate under section 29;

(*b*) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.

31. *Sentence in cases of conviction of several offences at one trial.*—(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code, (45 of 1860), sentence him for such offences, to the serveral punishment prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on convication of a single offence, to send the offender for trial before a higher Court:

Provided that—

(*a*) in no case shall person be sentenced to imprisonment for a longer period than fourteen years ;

(*b*) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

32. *Mode of conferring powers.*—(1) In conferring powers under this Code, the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

33. *Powers of officers appointed.*— Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government, as the case may be, otherwise directs, or has otherwise directed exercise the same powers in the local area in which he is so appointed.

34. *Withdrawal of powers.*—(1) The High Court or the State Government, as the case may be, may withdraw all or any of the powers conferred by it under this Code on any person or by any officer subordinate to it.

(2) Any powers conferred by the Chief Judicial Magistrate or by the District Magistrate may be withdrawn by the respective Magistrate by whom such powers were conferred.

35. *Powers of Judges and Magistrates exercisable by their successors-in-office.*—(1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor in-office of any Additional or Assistant Sessions Judge. the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Additional or Assistant Sessions Judge.

(3) When there is any doubt as to who is the successor-in-office of any Magistrate, the Chief Judical Magistrate, or the District Magistrate, as the case may be, shall determine by order in writing the Magistrate who shall, for the purpose of this Code or of any proceedings or order thereunder, be deemed to be successor-in-office of such Magistrate.

CHAPTER IV

A—Powers of superior officers of police

36. *Powers of superior officers of police.*—Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

B—Aid to the Magistrates and the police

37. *Public when to assist Magistrates and police.*— Every person is bound to assist a Magistrate or police officer reasonably demanding his aid—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or

(*b*) in the prevention or suppression of a breach of the peace: or

(*c*) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or puble property.

38. *Aid to person, other than police officer, executing warrant.*—When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the

execution of the warrant.

39. *Public to give information of certain offences.*—(1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code, (45 of 1860), namely:—

(*i*) sections 121 to 126, both inclusive, and section 130 (that is to say, offences against the State specified in Chapeter VI of the said Code);
(*ii*) sections 143, 144, 145, 147 and 148 (that is to say, offences against the public tranquility specified in Chapter VIII of the said Code);
(*iii*) sections 161 to 165A, both inclusive (that is to say, offences relating to illegal gratification);
(*iv*) sections 272 to 278, both inclusive (that is to say, offences relating to adulteration of food and drugs, etc.);
(*v*) sections 302, 303 and 304 (that is to say, offences affceting life);
(*vi*) section 382 (that is to say, offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft),
(*vii*) sections 392 to 399, both inclusive, and section 402 (that is to say, offences of robbery and dacoity);
(*viii*) section 409 (that is to say, offence relating to criminal breach of trust by public servant, etc.);
(*ix*) sections 431 to 439, both inclusive (that is to say, offences of mischief against property);
(*x*) sections 449 and 450 (that is to say, offence of house-trespass);
(*xi*) sections 456 to 460, both inclusive (that is to say, offences of lurking house-trespass); and
(*xii*) sections 489A to 489E, both inclusive (that is to say, offences relating to currency notes and bank notes),

shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forth with give information to the nearest Magistrate or police officer such commission or intention.

(2) For the purposes of this section, the term "offence" includes any act committed at any place out of India which would constitute an offence if committed in India.

40. *Duty of officers employed in connection with the affairs of a village to make certain report.*—(1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;
(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;
(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, section 144, section 145, section 147 or section 148 of the Indian Penal Code (45 of 1860);
(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;
(*e*) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, 231 to 238 (both inclusive), 302, 304, 382, 392 to 399 (both inclusive), 402, 435 436, 449, 450, 457 to 460 (both inclusive), 489 A, 489B, 489 C and 489D;
(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the State Government, has directed him to communicate information.

(2) In this section,—

(*i*) "village" includes village-lands;
(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Code does not extend, in respect of any act which if committed in the territories to which this Code extends, would be an offence punishable under any of the following sections of the Indian Penal Code (45, of 1860), namely, 302 304, 382, 392 to 399 (both inclusive), 402, 435, 449, 450 and 457 to 460 (both inclusive);
(*iii*) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

CHAPTER V

ARREST OF PERSONS

41. *When police may arrest without warrant.*—(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

(*a*) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or
(*b*) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ; or
(*c*) who has been proclaimed as an offender either under this Code or by order of the State Government; or
(*d*) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or
(*e*) who obstructs a police officer while in the execution of this duty, or who has escaped, or attempts to escape, from lawful custody; or
(*f*) who is reasonbaly suspected of being a deserter from any of the Armed Forces of the Union; or
(*g*) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonbale suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed is Indian would have been punishable

as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(*h*) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 356; or

(*i*) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of persons specified in section 109 or section 110.

42. *Arrest on refusal to give name and residence.*—(1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person, have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

43. *Arrest by private person and procedure on such arrest.*—(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 42; but if there is no sufficient reason to believe that he has committed any offience, he shall be at once released.

44. *Arrest by Magistrate.*—(1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, with his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

45. *Protection of members of the Armed Forces from arrest.*—(1) Notwithstanding anything contained in sections 41 to 44 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

(2) The State Government may, by notification direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

46. *Arrest how made.*—(1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

47. *Search of place entered by person sought to be arrested.*—(1) If any person acting under a warrant of arrest, or any police officer having authority to arrest has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot other wise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a female (not being the person to bin arrested) who according to custom, does not appearng public such person or police officer shall, before entering such apartment, give notice to such female that she at liberty to withdraw and shall afford her every reaso nble facility for withdrawing, and may then break opein the apartment and enter it.

(3) Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

48. *Pursuit of offenders into other jurisdictions.*—A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.

49. *No unnecessary restraint.*—The person arrested

shall not be subjected to more restraint than is necessary to prevent his escape.

50. *Person arrested to be informed of grounds of arrest and of right to bail.*—(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform thet person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

51. *Search of arrested person.*—Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.

(2) Whenever it is necessary to cause a female to be searched, the search shall made by another female with strict regard to decency.

52. *Power to sezie offensive weapons.*—The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

53. *Examination of accused by medical at the request of police officer.*—(1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of a police officer not below the rank of sub-Inspector, and for any person acting in good faifth in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of a female registered medical practitioner.

Explanation.—In this section and in section 54, "registered medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956), and whose name has been entered in a State Medical Register.

54. *Examination of arrested person by medical practitioner at the request of the arrested person.*—When a person who is arrested, whether on a charge or otherwise, alleges, at the time when he is produced befoe a Magistrate or at any time during the period of his detention in custody that the examination of his body will afford evidence which will disprove the commission by him of any offence or which will establish the commission by any other person of any offence against his body, the Magistrate shall, if requested by the arrested person so to do direct the examination of the body of such person by a registered medical practititoner unless the Magistrate considers that the request is made for the purpose or vexation or delay of for defeating the ends of justice.

55. *Procedure when police officer deputes subordinate to arrest without warrant.*—(1) When any officer in charge of a police station or any police officer making an investigation under Chapter XII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall devliver to the officer required to make the arrest an order in writing specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before mking the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

(2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under section 41.

56. *Person arrested to be taken before Magistrate or officer in charge of police station.*—A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.

57. *Person arrested not to be detained more then twenty-four hours.*—No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

58. *Police to report apprehensions.*—Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

59. *Discharge of person apprehended.*—No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

60. *Power on escape, to pursue and re-take.*—If a person in lawfull custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.

(2) The provisions of section 47 shall apply to arrests under sub-section (1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—*Summons*

61. *Form of summons.*—Every summons issued by a Court under this Code shall be in writing, in duplicate

singed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule direct, and shall bear the seal of the Court.

62. *Summons how served.*—(1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the persons summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

63. *Service of summons on corporate bodies and societies.*—Service of a summons on a corporation may be effected by serving it on the secretary, local manager or other principal officer of the corporation, or by letter sent by registered post, addressed to the chief officer of the corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Explanation.—In this section, "corporation" means an incorporated company or other body corporate and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

64. *Service when persons summoned cannot be found.*—Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

Explanation.—A servant is not a member of the family with the meaning of this section.

65. *Procedure when service cannot be effected as before provided.*—If service cannot by the exercise of due diligence be effected as provided in section 62, section 63 or section 64, the serving officer shall affix one of the duplicates of the summons to some conspicous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

66. *Service on Government servant.*—(1) Where the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 62, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

67. *Service of summons outside local limits.*—When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served.

68. *Proof of service in such cases and when serving officer not present.*—(1) When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served and a duplicate of the summons purporting to be endorsed (in the manner provided by section 62 or section 64) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the countrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

69. *Service of summons on witness by post.*—(1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

(2) When an acknowledgement purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the wetness refused to take delivery of the summons has been received, the Court issuing the summons may declare that the sumsm has been duly served.

B.—*Warrant of arrest*

70. *Form of warrant of arrest and duration.*—(1) Every warrant of arrest issued by a Court under this Code shall be writing, signed by the presiding officer of such Court and shall bear the seal of the Court.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

71. *Power to direct security to be taken.*—Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter untill otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state—

(*a*) the number of sureties;

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;

(*c*) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

72. *Warrants to whom directed.*—(1) A warrant of arrest shall ordinarily be directed to one or more police officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

73. *Warrant may be directed to any person.*—(1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 71.

74. *Warrant directed to police officer.*—A warrant directed to any police officer may also be a executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

75. *Notification of substance of warrant.*—The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

76. *Person arrested to be brought before Court without delay.*—The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 71 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person:

Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

77. *Where warrant may be executed.*—A warrant of arrest may be executed at any place in India.

78. *Warrant forwarded for execution outside jurisdiction.*—(1) When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such Court may, instead of directing the warrant to a police officer within its jurisdiction, forward it by post or otherwise to any Executive Magistrate or District Supperintendent of Police or Commissioner of police within the local limits of whose jurisdiction it is to be executed; and the Executive Magistrare to District Superintendent or Commissioner shall endorse his name thereon, and if practicable, cause it to be executed in the manner hereinbefore provided.

(2) The Court issuing a warrant under sub-section (1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 81 to decide whether bail should or should not be granted to the person.

79. *Warrant directed to police officer for execution outside jurisdiction.*—(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same, and the local police shall, if so required assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endoresment of the Magistrate or police officer within whose local jurisdiction the warrant is to be executed will prevent such execution the police officer to whom it is directed may execute the same without such endorsenment in any place beyond the local jurisdiction of the Court which issued it.

80. *Procedure on arrest of person against whom warrant issued.*—When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometres of the place of arrest or is nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 71, be taken before such Magistrate or District Superintendent or Commissioner.

81. *Procedure by Magistrate before whom such person arrested is brought.*—(1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, directed removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 71 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security as the case may be, and forward the bond, to the Court which issued the warrant:

Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 437), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 78, to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 71.

C—*Proclamation and attachment*

82. *Proclamation for person absconding.*—(1) If any Court has reason to believe (whether after taking evidence or not) any person against whom a warrant has geen issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a sepecified place and at a specified time not less than thirty days from the date of publishing such procalmation.

(2) The proclamation shall be published as follows:—

(*i*) (*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(*ii*) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily news paper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (*i*) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

83. *Attachment of property of person absconding.*—(1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachement of any property, movable or immovable or both belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation the Court is satisfied by affidavit or other-

wise, that the person in relation to whom the proclamation is to be issued,—

(*a*) is about to dispose of the whole or any part of his property; or

(*b*) is about to remove the whole or any part of his property from the local jurisdiction of the Court,

it may order the attachment simultaneously with the issue of the proclamation.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made:—

(*a*) by seizure; or

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate, and in all other cases:—

(*a*) by taking possession; or

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908).

84. *Claims and objections to attachment.*—(1) If any claim is preferred to, or objection made to the attachment of any property attached under section 83, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 83, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant of or objector, be continued by his legal representative.

(2) Claims or objections under sub-section (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 83, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made.

(3) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate he may make it over for disposal to any Magistrate subordinate to him.

(4) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

85. *Release, sale and restoration of attached property.*—(1) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(2) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of the State Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 84 has been disposed of under that section unless it is subject to speedy and natural decay, or the Court considers, that the sale would be for the benefit of the owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

(3) If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

86. *Appeal from order rejecting application for restoration of attached property.*—Any person referred to in sub-section (3) of section 85, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first mentioned Court.

D—*Other rules regarding processes*

87. *Issue of warrant in lieu of, or in addition to, Summons.*—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reasons to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

88. *Power to take bond for appearance.*—When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial.

89. *Arrest on breach of bond for appearance.*—When any person who is bound by any bond taken under this Code to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

90. *Provisions of this Chapter generally applicable to summons and warrants of arrest.*—The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A—*Summons to produce*

91. *Summons to produce document or other thing.*—(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed—

(*a*) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Banker's Books Evidence Act, 1891 (13 of 1891), or

(*b*) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

92. *Procedure as to letters and telegrams.*—(1) If any document, parcel or thing in the custody of a postal or telegraph authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the postal or telegraph authority as the case may be, to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

(2) In any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authority, as the case may be, to cause search to be made for and to detain such document, parcle or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

B—*Search-warrants*

93. *When search warrants may be issued.*—(1) (*a*) Where any Court has reason to believe that a person to whom a summons or order under section 91 or a requisition under sub-section (1) of section 92 has been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition, or

(*b*) where such document or thing is not known to the Court to be in the possession of any person, or

(*c*) where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection, it may issue a search warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

(3) Nothing contained in this section shall authorise any Magistrate other than a District Magistrate or Chief Judicial Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal or telegraph authority.

94. *Search of place suspected to contain stolen property to forged documents, etc.*—(1) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first Class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place,

(*b*) to search the same in the manner specified in the warrant,

(*c*) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies,

(*d*) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety,

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies.

(2) The objectionable article to which this section applies are—

(*a*) counterfeit coin;

(*b*) pieces of metal made in contravention of the Metal Tokens Act, 1889 (1 of 1889), or brought into India in contravention of any notification for the time being in force under section 11 of the Customs Act, 1962 (52 of 1962);

(*c*) counterfeit currency note; counterfeit stamps;

(*d*) forged documents;

(*e*) false seals;

(*f*) obscene objects referred to in section 292 of the Indian Penal Code (45 of 1860);

(*g*) instruments or materials used for the production of any of the articles mentioned in clauses (*a*) to (*f*).

95. *Power to declare certain publications forfeited and to issue search-warrants for the same.*—(1) Where—

(*a*) any newspaper, or book, or

(*b*) any document,

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 124A or section 153A or section 153B

or section 292 or section 293 or section 295A of the Indian Penal Code (45 of 1860), the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In this section and in section 96,—

(*a*) "newspaper" and "book" have the same meaning as in the Press and Registration of Books Act, 1867 (25 of 1867);

(*b*) "document" includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 96.

96. *Application to High Court to set aside declaration of forfeiture.*—(1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under section 95, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set aside such declaration on the ground that the issue of the newspaper, or the book or other document, in resect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of section 95.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists if less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of section 95, set aside the declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

97. *Search for persons wrongfully confined.*—If any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first Class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

98. *Power to compel restoration of abducted females.*—Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years, for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the First Class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

C—General provisions relating to searches

99. *Direction, etc., of search-warrants.*—The provisions of sections 38, 70, 72, 74, 77, 78 and 79 shall, so far as may be, apply to all search-warrants issued under section 93, section 94, section 95 or section 97.

100. *Persons incharge of closed place to allow search.*—(1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of section 47.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person.

(7) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof, shall be delivered to such person.

(8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code (45 of 1860).

101. *Disposal of things found in search beyond jurisdiction.*—When, in the execution of a search-warrant at any place beyond the local jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immedia-

tely taken before such Magistrate, and unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

D—*Miscellaneous*

102. *Power of police officer to seize certain property.*— (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

103. *Magistrate may direct search in his presence.*— Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

104. *Power to impound document, etc., produced.*— Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. *Reciprocal arrangements regarding processes.*— (1) Where a Court in the territories to which this Code extends (hereinafter in this section referred to as the said territories) desires that—

(*a*) a summons to an accused person, or

(*b*) a warrant for the arrest of an accused person, or

(*c*) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(*d*) a search warrant,

issued by it shall be served or executed at any place within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (*a*) or clause (*c*) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories.

(2) Where a Court in the said territories has received for service or execution—

(*a*) a summons to an accused person, or

(*b*) a warrant for the arrest of an accused person, or

(*c*) a summons to any person requiring him to attend and produce a document or other thing or to produce it, or

(*d*) a search-warrant,

issued by a Court in any State or area in India outside the said territories, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—

(*i*) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 80 and 81.

(*ii*) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101.

CHAPTER VIII

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

106. *Security for keeping the peace on conviction.*— (1) When a Court of Session or Court of a Magistrate of the first Class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit.

(2) The offences referred to in sub-section (1) are—

(*a*) any offence punishable under Chapter VIII of the Indian Penal Code (45 of 1860), other than an offence punishable under section 153A or section 153B or section 154 thereof;

(*b*) any offence which consists of, or includes, assault or using criminal force or committing mischief;

(*c*) any offence of criminal intimidation;

(*d*) any other offence which caused, or was intended or known to be likely to cause, a breach of the peace.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision.

107. *Security for keeping the peace in other cases.*— (1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

108. *Security for good behaviour from persons disseminating seditious matters.*—(1) When a Judicial Magistrate of the First Class receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—

(*i*) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(*a*) any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 295A of the Indian Penal Code (45 of 1860), or

(*b*) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Indian Penal Code (45 of 1860),

(*ii*) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 292 of the Indian Penal Code (45 of 1860),

and the Magistrate is of opinion that there is sufficient ground for proceeding, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exeeding one year, as the Magistrate thinks fit.

(2) No proceedings shall be taken under this section

against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867 (25 of 1867), with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

109. *Security for good behaviour from suspected person*—When a Judicial Magistrate of the first Class receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

110. *Security for good behaviour from habitual offenders.*—When a Judicial Magistrate of the first Class receives information that there is within his local jurisdiction a person who—

(*a*) is by habit a robber, house-breaker, thief, or forger, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, (45 of 1860) or under section 489A, section 489B, section 489C or section 489D of that Code, or

(*e*) habitually commits, or attempts to commit, abets the commission of, offences, involving a breach of the peace, or

(*f*) habitually commits, or attempts to commit, or abets the commission of—

(*i*) any offence under one or more of the following Acts, namely:—

(*a*) the Drugs and Cosmetics Act, 1940 (23 of 1940);

(*b*) the Foreign Exchange Regulation Act, 1947 (7 of 1947);

(*c*) the Employees' Provident Funds Act, 1952 (19 of 1952);

(*d*) the Prevention of Food Adultration Act, 1954 (37 of 1954);

(*e*) the Essential Commodities Act, 1955 (10 of 1955);

(*f*) the Untouchability (Offences) Act, 1955 (22 of 1955);

(*g*) the Customs Act, 1962 (52 of 1962); or

(*ii*) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(*g*) is so desperate and dangerous as to render his being at large without security hazardous to the community;

such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

111. *Order to be made.*—When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause such section, he shall make an order in writing 'n g forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

112. *Procedure in respect of person present in Court.* – If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

113. *Summons or warrant in case of person not so present.*—If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

114. *Copy of order to accompany summons or warrant.*—Every summons or warrant issued under section 113 shall be accompanied by a copy of the order made under section 111, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

115. *Power to dispense with personal attendance.*—The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

116. *Inquiry as to truth of information.*—(1) When an order under section 111 has been read or explained under section 112 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 113, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 111 has been made toeping execute a bond, with or without sureties, for ke the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that—

(*a*) no person against whom proceedings are not being taken under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour:

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it wss not based on any special reason or was perverse.

117. *Order to give security.*—If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided that

(*a*) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 111;

(*b*) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(*c*) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

118. *Discharge of person informed against.*—If, on an inquiry under section 116, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

119. *Commencement of period for which security is required.*—(1) If any person, in respect of whom an order requiring security is made under section 106 or section 117, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

120. *Contents of bond.*—The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

121. *Power to reject sureties.*—(1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (*1*), and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

122. *Imprisonment in default of security.*—(1) (*a*) If any person ordered to give security under section 106 or section 117 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

(*b*) If any person after having executed a bond without sureties for keeping the peace in pursuance of an order of a Magistrate under section 117, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond, such Magistrate or successor-in-office may, after recording the grounds of such proof, order that the person be arrested and detained in prison until the expiry of the period of the bond and such order shall be without prejudice to any other punishment or forfeiture to which the said person may be liable in accordance with law.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, and after giving the concerned person a reasonable opportunity of being heard, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(4) If security has been required in the course of the same proceeding from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned, shall not exceed the period for which he was ordered to give security.

(5) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (4) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(6) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(7) Imprisonment for failure to give security for keeping the peace shall be simple.

(8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 108, be simple, and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

123. *Power to release persons imprisoned for failing to give security.*—(1) Whenever the Chief Judicial Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the High Court or Court of Session, or, where the order was made by any other Court, the Chief Judicial Magistrate, may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The State Government may prescribed the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any person has been discharged is, in the opinion of the Chief Judicial Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the Chief Judicial Magistrate.

(7) Unless such person gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the Chief Judicial Magistrate may remand such person to prison to undergo such unexpired portion.

(8) A person remanded to prison under sub-section (7) shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

(9) The High Court or Court of Session may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by any order made by it, and the Chief Judicial Magistrate may make such cancellation where such bond was executed under his order or under the order of any other Court in his district.

(10) Any surety for the peaceable conduct or good behaviour of another person ordered to execute a bond under this Chapter may at any time apply to the Court making such order to cancel the bond and on such application being made, the Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it.

124. *Security for unexpired period of bond.*—(1) When a person for whose appearance a summons or warrant has been issued under the proviso to sub-section (3) of section 121 or under sub-section (10) of section 123, appears or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security.

(2) Every such order shall, for the purposes of sections 120 to 123 (both inclusive), be deemed to be an order made under section 106 or section 117, as the case may be.

CHAPTER IX

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

125. *Order for maintenance of wives, children and parents.*—(1) If any person having sufficient means neglects or refuses to maintain—

(*a*) his wife, unable to maintain herself, or

(*b*) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(*c*) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(*d*) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding five hundred rupees in the whole, as such Magistrate things fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (*b*) to make such allowance until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

Explanation.—For the purposes of this Chapter,—

(*a*) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(*b*) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Such allowance shall payable from the date of the order, or if so ordered, from the date of the application for maintenance.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

126. *Procedure.*—(1) Proceedings under section 125 may be taken against any person in any district—

(*a*) where he is, or

(*b*) where he or his wife resides, or

(*c*) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

(2) All evidence in such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte* and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subjet to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 125 shall have power to make such order as to costs as may be just.

127. *Alteration in allowance.*—(1) On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration in the allowance as he thinks fit:

Provided that if he increases the allowance, the monthly rate of five hundred rupees in the whole shall not be exceeded.

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, very the same accordingly.

(3) Where any order has been made under section 125 in favour of a woman who has been divorced by, or has obtained a divorce from her husband, the Magistrate shall, if he is satisfied that—

(*a*) the women has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(*b*) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce; cancel such order,—

(*i*) in the case where such sum was paid before such order, from the date on which such order was made,

(*ii*) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(*c*) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a monthly allowance has been ordered to be paid under section 125, the Civil Court shall take into account the sum which has been paid to, or recovered by, such person as montly allowance in pursuance of the said order.

128. *Enforcement of order of maintenance.*—A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the indentity of the parties and the non-payment of the alllowance due.

CHAPTER X

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—*Unlawful assemblies*

129. *Dispersal of assembly by use of civil force.*—(1) Any Executive Magistrate or officer incharge of a police station or, in the absence of such officer incharge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

130. *Use of armed forces to disperse assembly.*—(1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. *Power of certain armed force officers to disperse Assembly.*—When the public security is manifestly endangered by any such assembly and no Executive Magistrate, can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any person forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

132. *Protection against prosecution for acts done under preceding sections.*—(1) No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instiuted in any Criminal Court except—

(*a*) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(*b*) with the sanction of the State Government in any other case.

(2) (*a*) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(*b*) no person doing any act in good faith in compliance with a requisition under section 129 or section 130;

(*c*) no officer of the armed forces acting under section 131 in good faith;

(*d*) no member of the armed forces doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence.

(3) In this section and in the preceding sections of this Chapter—

(*a*) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other Armed Forces of the Union so operating;

(*b*) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(*c*) "member", in relation to the armed forces, means a person in the armed forces other than an officer.

B.—*Public nuisances*

133. *Conditional order for removal of nuisance.*—(1) Whenever a District Magistrate or a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers—

(*a*) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(*b*) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(*c*) that the construction of any building, or, the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(*d*) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(*e*) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(*f*) that any dangerious animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order—

(*i*) to remove such obstruction or nuisance; or

(*ii*) to desist from carrying on, or to remove or regulate in such manner as may be directed; such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

(*iii*) to prevent or stop the construction of such building, or to alter the disposal of such substance; or

(*iv*) to remove, repair or support such building, tent or structure, or to remove or support such trees; or

(v) to fence such tank, well or excavation; or

(vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation. A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

134. *Service or notification of order.*—(1) The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the State Government may, by rules, direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

135. *Person to whom order is addressed to obey or show cause.*—The person against whom such order is made shall—

(*a*) perform, whithin the time and in the manner specified in the order, the act directed thereby; or

(*b*) appear in accordance with such order and show cause against the same.

136. *Consequences of his failing to do so.*—If such person does not perform such act or appear and show cause, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code (45 of 1860), and the order shall be made absolute.

137. *Procedure where existence of public right is denied.*—(1) Where an order is made under section 133 for the purpose of preventing obstrction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 138.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

138. *Procedure where he appears to show cause.*—(1) If the person against whom an order under section 133 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case.

139. *Power of Magistrate to direct local investigation and examination of an expert.*—The Magistrate may, for the purposes of an inquiry under section 137 or section 138—

(*a*) direct a local investigation to be made by such person as he thinks fit; or

(*b*) summon and examine an expert.

140. *Power of Magistrate to furnish written instructions, etc.*—(1) Where the Magistrate directs a local investigation by any person under secton 139, the Magistrate may—

(*a*) furnish such person with such written instructions as may seem necessary for his guidance;

(*b*) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case.

(3) Where the Magistrate summons and examines an expert under section 139, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

141. *Procedure on order being made absolute and consequences of disobedience.*—(1) When an order has been made absolute under section 136 or section 138, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code (45 of 1860).

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction and if such other property is without such jurisdiction, the order shall authorise its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anyting done in good faith under this section.

142. *Injunction pending inquiry.*—(1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. *Magistrate may prohibit repetition or continuance of public nuisance.*—A District Magistrate or Sub-Divisional Magistrate, or any other Executive Magistrate empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as de ned in the Indian Penal Code, (45 of 1860) or any special or local law.

C—*Urgent cases of nuisance or apprehended danger*

144. *Power to issue order in urgent cases of nuisance or apprehended danger.*—(1) In cases where, in the opinion of a District Magistrate, a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or any affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall reamin in force for more than two months from the making thereof:

Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of anv person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

D—*Disputes as to immovable property*

145. *Procedure where dispute concerning land or water is likely to cause breach of peace.*—(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in hear the parties receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police office or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall he stayed, but, subject to such cancellation the order of the Magistrate under sub-section (1) shall be final.

(6) (*a*) If the Magistrate decides that one of the parties was, or should under the proviso to sub-section (4) be treated as being , in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossesed.

(*b*) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make

such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section on the application of either party, issue a summons to any witness directing him to attend to or produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.

146. *Power to attach subject of dispute and to appoint receiver.*—(1) If the Magistrate at any time after making the order under sub-section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possesion of the subject of dispute he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908):

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(*a*) shall order the receive r appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him.

(*b*) may make such other incidental or consequential orders as may be just.

147. *Dispute concerning right of use of land or water.*—(1) Whenever an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the paties concerned in such dispute to attend his Court in person or by pleader on a specified date and time and to put in written statements of their respective claims.

Explanation.—The expression "land or water" has the meaning given to it in sub-section (2) of section 145.

(2) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible decide whether such right exists; and the provisions of section 145 shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 145 the Magistrate finds that the dispute is as regards an alleged right of user of land or water, he may, after recording his reasons continue with the proceedings as if they had been commenced under sub-section (1);

and when in any proceedings commenced under sub-section (1) the Magistrate finds that the dispute should be dealt with under section 145, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 145.

148. *Local inquiry.*—(1) Whenever a local inquiry is necessary for the purposes of section 145, section 146 or section 147, a District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under section 145, section 146, or section 147, the Magistrate passing a decision may direct by whom such cost shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of pleaders' fees which the Court may consider reasonable.

CHAPTER XI

PREVENTIVE ACTION OF THE POLICE

149. *Police to prevent cognizable offences.*—Every police officer may interpose for the purpose of preventing, and shall to the best of his ability, prevent the commission of any cognizable offence.

150. *Information of design to commit cognizable offences.*—Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. *Arrest to prevent the commission of cognizable offences.*—(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Code or of any other law for the time being in force.

152. *Prevention of injuiry to public property.*—A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

153. *Inspection of weights and measures.*—(1) Any officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154. *Information in cognizable cases.*—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

155. *Information as to non-cognizable cases and investigation of such cases.*—(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, not withstanding that the other offences are non-cognizable.

156. *Police officer's power to investigate cognizable case.*—(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

157. *Procedure for investigation.*—(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(*a*) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(*b*) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (*b*) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he

will not investigate the case or cause it to be investigated.

158. *Report how submitted.*—(1) Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. *Power to hold investigation or preliminary inquiry.* -Such Magistrate, on receiving such report, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Code.

160. *Police officer's power to require attendance of witnesses.* —(1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, be rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

161. *Examination of witnesses by police.*—(1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture:

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

162. *Statements to police not to be signed: Use of statements in evidence.*—(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872 (1 of 1872), or to affect the provisions of section 27 of that Act.

Explanation.—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

163. *No inducement to be offered.*—(1). No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872 (1 of 1872).

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 164.

164. *Recording of confessions and statements.*—(1) Any Metropolitan Magistrate or Judicial Magistrate, may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.
Magistrate".

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

165. *Search by police offfcer.*—(1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officers an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made: and such subordinate officer may thereupon search for such thing in such place.

(5) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 100 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

166. *When officer in charge of police station may require another to issue search-warrant.*—(1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to be the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in-charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in-charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched any place in the limits of another police station in accordance with the provisions of section 165, as if such place were within the limits of his own police station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 100, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the record referred to in sub-sections (1) and (3) of section 165.

(5) The owner or occupier of the place searched shall, on applications be furnished free of cost with a copy of any record sent to the Magistrate under sub-section (4).

167. *Procedure when investigation cannot be completed in twenty-four hours.*—(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(*a*) the Magistrate may authorise detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this section for a total period exceeding sixty days, and on the expiry of the said period of sixty days, the accused person shall be released on bail if he is prepared to and dose furnish bail: and every person released on bail

under this section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(*b*) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(*c*) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation.—If any question arises whether an accused person was produced before the Magistrate as required under paragraph (*b*), the production of the accused person may be proved by his signature on the order authorising detention.

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

168. *Report of investigation by subordinate police officer.*—When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.

169. *Release of accused when evidence deficient.*—If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.

170. *Cases to be sent to Magistrate when evidence is sufficient.*—(1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. *Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.*—No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as dircted in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. *Diary of proceedings in investigation.*—(1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145, as the case may be, of the Indian Evidence Act, 1872, (1 of 1872), shall apply.

173. *Report of police officer on completion of investigation.*—(1) Every investigation under this Chapter

shall be completed without unnecessary delay.

(2) (*i*) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

(*a*) the names of the parties;
(*b*) the nature of the information;
(*c*) the names of the persons who appear to be acquainted with the circumstances of the case;
(*d*) whether any offence appears to have been committed and, if so, by whom;
(*e*) whether the accused has been arrested;
(*f*) whether he has been released on his bond and, if so, whether with or without sureties;
(*g*) whether he has been forwarded in custody under section 170.

(*ii*) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrates, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(*a*) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
(*b*) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in subsection (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwareded to the Magistrate and, whereupon such investigation the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in th)e form prescribed and the provisions of sub-sections (2- to (6) shall, as far as may be apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

174. *Police to enquire and report on suicide, etc.*—(1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the State Government may prescribed in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrate are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

175. *Power to summon persons.*—(1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and, to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer ot attend a Magistrate's Court.

176. *Inquiry by Magistrate into cause of death.*—(1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer;

and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain spresent at the inquiry.

Explanation.—In this section, the expression "relative" means parents, children, brothers, sisters and spouse.

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

177. *Ordinary place of inquiry and trial.*—Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. *Place of inquiry or trial.*—(*a*) When it is uncertain in which of several local areas an offence was committed, or

(*b*) where an offence is committed partly in one local area and partly in another, or

(*c*) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(*d*) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

179. *Offence triable where act is done or consequence ensues.*—When an act is an offence by resason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

180. *Place of trial where act is offence by reaoson of relation to other offence.*—When an act is an offencer by reason of its relation to any other act which is also anoffence or which would be an offence if the doer were capable of committing an offence, the first mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

181. *Place of trial in case of certain offences.*—(1) Any offence of being a thug, or murder committed by a thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property.

182. *Offences committed by letters, etc.*—(1) Any offence which includes cheating may, if the deception is practised by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code (45 or 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offenders last resided with his or her spouse by the first marriage.

183. *Offence committed on journey or voyage.*—When an offence is committed whilst the person by or against whom, or the thing in respect of which, the offence is committed is in the course of performing a journey or voyage, the offence may be inquiryed into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage.

184. *Place of trial for offences triable together.*—Where—

(*a*) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 219, section 220 or section 221, or

(*b*) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 223,

the offences may be inquired into tried by any Court competent to inquire into or try any of the offences.

185. *Power to order cases to be tried in different session divisions.*—Notwithstanding anything contained in the preceding provisions of this chapter, the State Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions

division:

Provided that such direction is not repugnant to any direction previously issued by the High Court or the Supreme Court under the Constitution, or under this Code or any other law for the time being in force.

186. *High Court to decide, in case of doubt, district where inquiry or trial shall take place.*—Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquired into or try that offence, the question shall be decided decided—

(*a*) if the Courts are subordinate to the same High Court, by that High Court;

(*b*) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced,

and thereupon all other proceedings in respect of that offence shall be discontinued.

187. *Power to issue summons or warrant for offence committed beyond local jurisdiction.*—(1) When a Magistrate of the first class sees reason to believe that any person within his local jurisdiction has committed outside such jurisdiction (whether within or outside India) an offence which cannot, under the provisions of sections 177 to 185 (both inclusive), or any other law for the time being in force, be inquired into or tried within such jurisdiction but is under some law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local jurisdiction and compel such person in the manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is not punishable with death or imprisonment for life and such person is ready and willing to give bail to the satisfaction of the Magistrate acting under this section take a bond with or without sureties for his appearance before the Magistrate having such jurisdiction.

(2) When there are more Magistrate than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

188. *Offence committed outside India.*—When an offence is committed outside India—

(*a*) by a citizen of India, whether on the high seas or elsewhere; or

(*b*) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

189. *Receipt of evidence relating to offences committed outside India.*—When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 188, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before a judicial officer in or for that territory or before a diplomatic or consular representative of India in or for tha territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

CHAPTER XIV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

190. *Cognizance of offences by Magistrates.*—(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a police report of such facts;

(*c*) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

191. *Transfer on application of the accused.*—When a Magistrate takes cognizance of an offence under clause (*c*) of sub-section (1) of section 190, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

192. *Making over of cases to Magistrates.*—(1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him.

(2) Any Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to such other competent Magistrate as the Chief Judicial Magistrate may, by general or special order, specify, and thereupon, such Magistrate may hold the inquiry or trial.

193. *Cognizance of offences by Courts of Session.*—Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.

194. *Additional and Assistant Sessions Judges to try cases made over to them.*—An Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

195. *Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.*—(1) No Court shall take cognizance—

(*a*) (*i*) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860) or,

(*ii*) of any abetment of, or attempt to commit, such offence, or

(*iii*) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(*b*) (*i*) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(*ii*) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(*iii*) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (*i*) or sub-clause (*ii*),

except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under clause (*a*) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (*b*) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (*b*) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

196. *Prosecution for offences against the State and for criminal conspiracy to commit such offence.*—(1) No Court shall take cognizance of—

(*a*) any offence punishable under Chapter VI or under section 153A, section 153B, section 295A or section 505 of the Indian Penal Code (45 of 1860), or

(*b*) a criminal conspiracy to commit such offence, or

(*c*) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860),

except with the previous sanction of the Central Government or of the State Government.

(2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal Code (45 of 1860), other than a criminal conspiracy to commit a cognizable offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of section 195 apply, no such consent shall be necessary.

(3) The Central Government or the State Government may, before according sanction under sub-section (1) and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 155.

197. *Prosecution of Judges and public servants.*—(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction—

(*a*) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(*b*) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

198. *Prosecution for offences against marriage.*—(1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence:

Provided that—

(*a*) where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public some other person may, with the leave of the Court, make a complaint on his or her behalf;

(*b*) where such person is the husband and he is serving in any of the Armed Forces of the Union under

conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;

(c) where the person aggrieved by an offence punishable under section 494 of the Indian Penal Code (45 of 1860) is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister.

(2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497 or section 498 of the said Code:

Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf.

(3) When in any case falling under clause (*a*) of the proviso to sub-section (1), the complaint is sought to be made on behalf of a person under the age of eighteen years or of a lunatic by a person who has not been appointed or declared by a competent authority to be the guardian of the person of the minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give *him a reasonable opportunity of being heard.*

(4) The authorisation referred to in clause (*b*) of the provisio to sub-section (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document pruporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.

(6) No Court shall take cognizance of an offence under section 376 of the Indian Penal Code (45 of 1860), where such offence consists of sexual inter-course by a man with his own wife, the wife being under fifteen years of age, if more than one year has elapsed from the date of the commission of the offience.

(7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

199. *Prosecution for defamation.*—(1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence:

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

(2) Notwithstanding anything contained in this Code when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction—

(*a*) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(*b*) of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(*c*) of the Central Government, in any other case;

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

200. *Examination of complainant.*—A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(*a*) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(*b*) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

201. *Procedure by Magistrate not competent to take cognizance of the case.*—If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall,—

(*a*) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;

(*b*) if the complaint is not in writing, direct the complainant to the proper Court.

202. *Postponement of issue of process.*—(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,

(*a*) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(*b*) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant.

203. *Dismissal of complaint.*—If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204. *Issue of process.*—(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be-

(*a*) a summons-case, he shall issue his summons for the attendance of the accused, or

(*b*) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of section 87.

205. *Magistrate may dispense with personal attendance of accused.*—(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

206. *Special summons in cases of petty offence.*—(1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 260, the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader:

Provided that the amount of the fine specified in such summons shall not exceed one hundred rupees.

(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1939 (4 of 1939), or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

207. *Supply to the accused of copy of police report and other documents.*—In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

(*i*) the police report;

(*ii*) the first information report recorded under section 154;

(*iii*) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 173;

(*iv*) the confessions and statements, if any, recorded under section 164;

(*v*) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after persuing any such part of a statement as is referred to in clause (*iii*) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused

Provided further that if the Magistrate is satisfied that any document referred to in clause (*v*) is voluminous,

he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

208. *Supply of copies of stetements and documents to accused in other cases triable by Court of Session.*—Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 204 that the offence is triable exclusively by the Court of Session, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

(*i*) the statements recorded under section 200 or section 202, of all persons examined by the Magistrate;

(*ii*) the statements and confessions, if any, recorded under section 161 or section 164;

(*iii*) any documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

209. *Commitment of case to Court of Session when offence is triable exclusively by it.*—When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

(*a*) commit the case to the Court of Session;

(*b*) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(*c*) send to that Court the record of the case and the documents and article, if any, which are to be produced in evidence;

(*d*) notify the Public Prosecutor of the commitment of the case to the Court of Session.

210. *Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.*—(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

CHAPTER XVII

THE CHARGE

A—*Form of charges*

211. *Contents of charge.*—(1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed.

Illustrations

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code (45 of 1860), that it did not fall within any of the general exceptions of the said Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(*b*) A is charged under section 326 of the Indian Penal Code (45 of 1860), with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the said Code, and that the general exceptions did not apply to it.

(*c*) A is accused of murder, cheating, theft, extortion, adultry or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definition, of those crimes contained in the Indian Penal Code (45 of 1860); but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d*) A is charged under section 184 of the Indian Penal Code (45 of 1860) with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

212. *Particulars as to time, place and persons.*—(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other

movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219:

Provided that the time included between the first and last of such dates shall not exceed one year.

213. *When manner of committing offence must be stated.* -When the nature of the case is such that the particulars mentioned in sections 211 and 212 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charge and the law infringed.

214. *Words in charge taken in sense of law under which offence is punishable.*—In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

215. *Effect of errors.*—No error in stating either the offence or the particulars required to be stated in the charge, and no ommission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations

(*a*) A is charged under section 242 of the Indian Penal Code (45 of 1860), with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in thecharge. There were many transactions between A and B and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

216. *Court may alter charge.*—(1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charged had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

217. *Recall of witnesses when charge altered.*—Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed—

(*a*) to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;

(*b*) also to call any further witness whom the Court may think to be material.

B—*Joinder of charges*

218. *Separate charges for distinct offences.*—(1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:

Provided that where the accused person, by an application in writing, so desires and the Magistrate is of

opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(3) Nothing in sub-section (1) shall affect the operation of the provisions of sections 219, 220, 221 and 223.

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

219. *Three offences of same kind within year may be charged together.*—(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law:

Provided that, for the purposes of this section, an offence punishable under section 379 of the Indian Penal Code (45 of 1860) shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

220. *Trial for more than one offence.*—(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 212 or in sub-section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860).

Illustrations to sub-section (1)

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code (45 of 1860).

(*b*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code (45 of 1860).

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code (45 of 1860).

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code (45 of 1860). A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code (45 of 1860).

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code (45 of 1860).

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code (45 of 1860).

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code (45 of 1860).

The separate charges referred to in *Illustrations* (*a*) to (*h*), respectively, may be tried at the same time.

Illustrations to sub-section (3)

(*i*) A wrongfully strikes B with a cane. A may be separately charged with and convicted of, offences under sections 352 and 323 of the Indian Penal Code (45 of 1860).

(*j*) Several stolen sacks of corn are made over to A and B, who knew they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code (45 of 1860).

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with and convicted of, offences under sections 317 and 304 of the Indian Penal Code (45 of 1860).

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code (45 of 1860). A may be separately charged with, and convicted of, offences under sections 471 (read with section 466) and 196 of that Code.

Illustration to sub-section (4)

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code (45 of 1860).

221. *Where it is doubtful what offence has been committed.* (1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1),he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustrations

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) In the case mentioned, A is only charged with theft. It appears that he committed the offence of crinimal breach of trust, or that of receiving stolen goods. He may be convicted of crinimal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

(*c*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

222. *When offence proved included in offence charged.*— (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

Illustrations

(*a*) A is charged, under section 407 of the Indian Penal Code (45 of 1860), with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 406 of that Code in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said section 406.

(*b*) A is charged, under section 325 of the Indian Penal Code (45 of 1860) with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

223. *What persons may be charged jointly.*—The following persons may be charged and tried together, namely:—

(*a*) persons accused of the same offence committed in the course of the same transaction;

(*b*) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;

(*c*) persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months;

(*d*) persons accused of different offences comitted in the course of the same transaction;

(*e*) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(*f*) persons accused of offences under sections 411 and 414 of the Indian Penal Code (45 of 1860) or either of those sections in respect of stolen property the possession of which has been transferred by one offence;

(*g*) persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860) relating to counterfeit coin and persopns accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges:

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate may, if such persons by an application in writing, so desire, and if he is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.

224. *Withdrawal of remaining charges on conviction on one of several charges.*—When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

225. *Trial to be conducted by Public Prosecutor.*—In

every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

226. *Opening case for prosecution.*—When the accused appears or is brought before the Court in pursuance of a commitment of the case under section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

227. *Discharge.*—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. *Framing of charge.*—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(*a*) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, and thereupon the Chief Judicial Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(*b*) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (*b*) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

229. *Conviction on plea of guilty.*— If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

230. *Date for prosecution evidence.*—If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 229, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

231. *Evidence for prosecution.*—(1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution.

(2) The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

232. *Acquittal.*—If, after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal.

233. *Entering upon defence.*—(1) Where the accused is not acquitted under section 232, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.

(2) If the accused puts in any written statement, the Judge shall file it with the record.

(3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

234. *Arguments.*—When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply:

Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Judge, make his submissions with regard to such point of law.

235. *Judgment of acquittal of conviction.* - (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence, and then pass sentence on him according to law.

236. *Previous conviction.*—In a case where a previous conviction is charged under the provisions of sub-section (7) of section 211, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 229 or section 235, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the the Judge nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 229 or section 235.

237. *Procedure in cases instituted under section* 199 (2).—(1) A Court of Session taking cognizance of an offence under sub-section (2) of section 199 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate:

Provided that the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution.

(2) Every trial under this section shall be held in *camera* if either party thereto so desires or if the Court thinks fit so to do.

(3) If, any such case, the Court discharges or acquits all or any of the accused and is of opinion that there was no reasonable cause for making the accusation against them or any of them, it may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor of a State or the Administrator of a Union terriroty) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(4) The Court shall record and consider any cause which may be shown by the person so directed, and if it is satisfied that there was no reasonable cause or making the accusation, it may, for reasons to be recorded, make an order that compensation to such amount not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(5) Compensation awarded under sub-section (4) shall be recovered as if it were a fine imposed by a Magistrate.

(6) No person who has been directed to pay compensation under sub-section (4) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(7) The person who has been ordered under sub-section (4) to pay compensation a may appeal from the order, in so far as it relates to the payment of compensation, to the High Court.

(8) When an order for payment of compensation to an accused person is made, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

CHAPTER XIX

Trial of Warrant-Cases by Magistrates

A—*Cases instituted on a police report*

238. *Compliance with section* 207.—When, in any warrant-case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has complied with the provisions of section 207.

239. *When accused shall be discharged.*—If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

240. *Framing of charge.*—(1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

241. *Conviction on plea of guilty.*—If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

242. *Evidence for prosecution.*—(1) If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 241, the Magistrate shall fix a date for the examination of witnesses.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

243. *Evidence for defence.*—(1) The accused shall then be called upon to enter upon his defence and produce his evidence: and if the accused puts in any written statement, the Magistrate shall file it with the record.

(2) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness, before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice.

(3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.

B—*Cases instituted otherwise than on police report*

244. *Evidence for Prosecution.*—(1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

245. *When accused shall be discharged.*—(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

246. *Procedure where accused is not discharged.*—(1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistarate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make.

(3) If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing

so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken.

(5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.

247. *Evidence for defence.*—The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 243 shall apply to the case.

C—*Conclusion of trial*

248. *Acquittal or conviction.*—(1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 325 or section 325 or section 360, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 211 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2).

249. *Absence of complainant.*—When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

250. *Compensrtion for accusation with out reasaonable cause.*—(1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the persons upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code (45 of 1860) shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second class to pay compensation exceeding one hundred rupees, may appeal from the order, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided, and where such order is made a case which is not so subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

(8) The provisions of this section apply to summons-cases as well as to warrant-cases.

CHAPTER XX

Trial of Summons-Cases by Magistrates

251. *Substance of accusation to be stated.*—When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge.

252. *Conviction on plea of guilty.*—If the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him there on.

253. *Conviction on plea of guilty in absence of accused in petty cases.*—(1) Where a summons has been issued under section 206 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.

(2) The Magistrate may, in his discretion, convict the accused in his absence, on his plea of guilty and sentence him to pay the fine specified in the summons, and the amount transmitted by the accused shall

be adjusted towards that fine, or where a pleader authorised by the accused in this behalf pleads guilty on behalf of the accused, the Magistrate shall record the plea as nearly as possible in the words used by the pleader and may, in his discretion, convict the accused on such plea and sentence him as aforesaid.

254. *Procedure when not convicted.*—(1) If the Magistrate does not convict the accused under section 252 or section 253, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he think fit, on the application of the prosecution or the accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that the reasonable expenses of the witness incurred in attending for the purposes of the trial be deposited in Court.

255. *Acquittal or conviction.*—(1) If the Magistrate upon taking the evidence referred to in section 254 and such further evidence, if any, as he may, of his own motion, cause to be produced, finds the accused not guilty, he shall record an order of acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 325 or section 360, he shall, if he finds the accused guilty, pass sentence upon him according to law.

(3) A Magistrate may, under section 252 or section 255, convict the accused of any offence triable under this Chapter, which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons, if the Magistrate is satisfied that the accused would not be prejudiced thereby.

256. *Non-appearance or death of complainant.*—(1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reasons he thinks it proper to adjourn the hearing of the case to some other day:

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance and proceed with the case.

(2) The provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death.

257. *Withdrawal of complaint.*—If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

258. *Power to stop proceedings in certain cases.*—In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, releas the accused; and such release shall have the effect of discharge.

259. *Power of Court to convert summons-cases into warrant-cases.*—When in the course of the trial of summons-case relating to an offence punishable with imprisonment for a term exceeding six months, it appears to the Magistrate that in the interests of justice, the offence should be tried in accordance with the procedure for the trial of warrant-cases, such Magistrate may proceed to re-hear the case in the manner provided by this Code for the trial of warrant-cases and may recall any witness have been examined.

CHAPTER XXI

SUMMARY TRIALS

260. *Power to try summarily.*—(1) Notwithstanding anything contained in this Code—

(*a*) any Chief Magistrate;

(*b*) any Metropolitan Magistrate;

(*c*) any Magistrate of the first class specially empowered in this behalf by the High Court,

may, if he thinks fit, try in a summary way all or any of the following offences:—

(*i*) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(*ii*) theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed two hundred rupees;

(*iii*) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed two hundred rupees;

(*iv*) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed two hundred rupees;

(*v*) offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);

(*vi*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506 of the Indian Penal Code (46 of 1860);

(*vii*) abetment of any of the foregoing offences;

(*viii*) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(*ix*) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871).

(2) When, in the course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undersirable to try it summarily, the Magistrate shall recall any witnesses who may have been examined, and proceed to re-hear the case in the manner provided by this Code.

261. *Simmary trial by Magistrate of the second class.*—The High Court may confer on any Magistrate invested with the powers of a Magistrate of the second class power to try summarily any offence which is punishable only with fine or with imprisonment for a term not exceeding six months with or without fine, and

any abetment of or attempt to commit any such offence.

262. *Procedure for summary trials.*—(1) In trials under this Chapter, the procedure specified in this Code for the trial of summons-case shall be followed except as hereinafter mentioned.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

263. *Record in summary trials.*—In every case tried summarily, the Magistrate shall enter, in such form as the State Government may direct, the following particulars, namely:—

(*a*) the serial number of the case;
(*b*) the date of the commission of the offence;
(*c*) the date of the report or complaint;
(*d*) the name of the complainant (if any);
(*e*) the name, parentage and residence of the accused;
(*f*) the offence complained of and the offece (if any) proved, and in cases coming under clause (*ii*), clause (*iii*) or clause (*iv*) of sub-section (1) of section 260, the value of the property in respect of which the offence has been committed;
(*g*) the plea of the accused and his examination (if any);
(*h*) the finding;
(*i*) the sentence or other final order;
(*j*) the date on which proceedings terminated.

264. *Judgment in cases tried summarily.*—In every case tried summarily in which the accused does not plead guilty, the Magistrate shall record the substance of the evidence and a judgment containing a brief statement of the reasons for the finding.

265. *Language of record and judgment.*—(1) Every such record and judgement shall be written in the language of the Court.

(2) The High Court may authorise any Magisrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.

CHAPTER XXII

Attendance of Persons Confined or Detained in Prisons

266. *Definitions.*—In this Chapter,—

(*a*) "detained" includes detained under any law providing for preventive detention ;

(*b*) "prison" includes,—

(*i*) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail;

(*ii*) any reformatory, Borstal institution or other institution of a like nature.

267. *Power to require attendance of prisoners.*—(1) Whenever, in the course of an inquiry, trial or other proceeding under this Code, it appears to a Criminal Court,—

(*a*) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him, or

(*b*) that it necessary for the ends of justice to examine such person as a witness.

the Court make an order requiring the officer in charge of the prison to produce such person before the Court for answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

268. *Power of State Government to exclude certain persons from operation of section* 267.—(1) The State Government may, at any time, having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 267, whether before or after the order of the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub-section (1), the State Government shall have regard to the following matters, namely:—

(*a*) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;

(*b*) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison:

(*c*) the public interest, generally.

269. *Officer in charge of prison to abstain from carrying out order in certain contingencies.*—Where the person in respect of whom an order is made under section 267—

(*a*) is by reason of sickness or infirmity unfit to be removed from the prison: or

(*b*) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

(*c*) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(*d*) is a person to whom an order made by the State Government under section 268 applies,

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining:

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distant from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (*b*).

270. *Prisoner to be brought to Court in custody.*—Subject to the provisions of section 269, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 267 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the

Court in which his attendanceis required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the court authorises him to be taken back to the prison in which he was confined or detained.

271. *Power to issue commission for examination of witness in prison.*—The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 284, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXIII shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person.

CHAPTER XXIII

EVIDENCE IN INQUIRIES AND TRIALS

A—*Mode of taking and recording evidence*

272. *Language of Courts.*—The State Government may determine what shall be, for purposes of this Code, the language of each Court within the State other than the High Court.

273. *Evidence to be taken in presence of accused.*—Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

Explanation.—In this section, "accused" includes a person in relation to whom any proceeding under Chapter VIII has been commenced under this Code.

274. *Record in summons cases and inquiries.*—(1) In all summmons-cases tried before a Magistrate in all inquiries under sections 145 to 148 (both inclusive), and in all proceedings under section 446 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of his evidence in the language of of the Court:

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

275. *Record in warrant-cases.*—(1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court, or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

276. *Record in trial before Court of Session.*—(1) In all trials before a court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court or, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

(2) Such evidence sfall ordinarily be taken down in the form of question and answer; but the presiding Judge may, in his discretion, take down or cause to be taken down, the whole or any part of such evidence in the form of a narrative.

(3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

277. *Language of record of evidence.*—In every case where evidence is taken down under section 275 or section 276,—

(*a*) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(*b*) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form partof the record;

(*c*) where under clause (*b*) evidence is taken down in a language other than the languge of the tourt, a ture translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

Provided that when clause (*b*) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

278. *Procedure in regard to such evidence when completed.*—(1) As the evidence of each witness taken under section 275 or section 276 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall and such remarks as he thinks necessary.

(3) If the record of the evidence is in a langjage different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands.

279. *Interpretation of evidence to accused or his pleader.*—(1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interprested to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Cour to interpret as much thereof as appear necessary.

280. *Remarks respecting demeanour of witness.*—When a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

281. *Record of examination of accused.*—(1) Whenever the accused is examined by a Metropolitan Magistrate, the Magistrate shall make a memorandum of the substance of the examination of the accused in the language of the Court, and such memorandum shall be signed by the Magistrate and shall form part of the record.

(2) Whenever the accused is examined by any Magistrate other than a Metropolitan Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable, in the language of the Court.

(4) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(5) It shallthereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and ture account of the statement made by the accused.

(6) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

282. *Interpreter to be bound to interpret truthfully.*—When the services of an interpreter are required by any Criminal Court for the interpretation of any evidense or statement, he shall be bound to tate the true interpretation of such evidence or statement.

283. *Record in High Court.*—Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it; and such evidence and examination shall be taken down in accordance with such rule.

B—*Commissions for the examination of witnesses*

284. *When attendance of witness may be dispensed with and commission issued.*—Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a Court or Magistrate that the examination of a witness is necessary for the ends of Justice; and that the attendance of such witness cannot be procured without an amount of delay, expence or inconvenience which, under the circumstances of the case, would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union territory as a witness is necessary for the ends justice, a commission shall be issued for the examination of such a witness.

(2) The Court, may, when issuing a commission for the examination of a witness for the prosecution, direct that such amount as the Court considers reasonable to meet the expenses of the accused, including the pleader's fees, be paid by the prosecution.

285. *Commission to whom to be issued.*—(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.

(2) If the witness is in India but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or Officer, and sent to such authority for transmission, as the Central Government may, by notification, prescribe in this behalf.

286. *Execution of commissions.*—Upon receipt of the commission, the Chief Metropolitan Magistrate or Chief Judicial Magistrate, or such Metropolitan or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

287. *Parties may examine witnesses.*—(1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate, Court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

288. *Return of commission.*—(1) After any commission issued under section 284 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exeeptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1972 (1 of 1872) may also be received in evidence at any subsequent stage of the case before another court

289. *Adjournment of proceeding.*—In every case in which a commission is issued under section 284, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the Commission.

290. *Execution of foreign commissions.*—(1) The provisions of section 286 and so much of section 28

and section 288 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 284.

(2) The Courts, Judges and Magistrate referred to in sub-section (1) are—

(*a*) any such Court, Judge or Magistrate exercising Jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification, specify in this behalf;

(*b*) any Court, Judge or Magistrate exercising Jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.

291. *Deposition of medical witness.*—(1) The deposition of a civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

292. *Evidence of officers of the Mint.*—(1) Any document purporting to be a report under the hand of any such gazetted officer of the Mint of the India Security Press (including the office of the Controller of Stamps and Stationery) as the Central Government may by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

(2) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(3) Without prejudice to the provisions of section 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), no such officer shall, except with the permission of the Master of the Mint or the India Security Press or the Controller of Stamps and Stationery, as the case may be, be permitted,—

(*a*) to give any evidence derived from any unpublished official records on which the report is based; or

(*b*) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

293. *Reports of certain Government scientific experts.*—(1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him, to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:—

(*a*) any Chamical Examinet or Assistant Chemical Examiner to Government;
(*b*) the Chief Inspector of Explosives;
(*c*) the Director of the Finger Print Bureau;
(*d*) the Director, Haffkeine Institute, Bombay;
(*e*) the Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;
(*f*) the Serologist to the Government.

294. *No formal proof of certain documents.*—(1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.

(2) The list of documents shall be in such form as may be prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

295. *Affidavit in proof of conduct of public servants.*—When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the appliction by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

296. *Evidence of formal character on affidavit.*—(1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit.

297. *Authorities before whom affidavits may be sworn.*—(1) Affidavits to be used before any Court under this Code may be sowrn or affirmed before—

(*a*) any Judge or Magistrate, or

(*b*) any Commissioner of Oaths appointed by a High Court or Court of Session, or

(*c*) any notary appointed under the Notaries Act, 1952 (53 of 1952).

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

298. *Previous conviction or acquittal how proved.*—In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was held, to be a copy of the sentence or order, or

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was undergone, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

299. *Record of evidence in absence of accused.*—(1) if it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

CHAPTER XXIV

General Provisions as to Inquiries Trials

300. *Person once convicted or acquitted not to be tried for same offence.*—(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence by constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried, for any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897), or of section 188 of this Code.

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*c*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*d*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of this section.

(*e*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

(*f*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

301. *Appearance by Public prosecutors.*—(1) The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(2) If in any such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case.

302. *Permission to conduct prosecution.*—(1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by a pleader.

303. *Right of person against whom proceedings are instituted to be defended.* —Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.

304. *Legal aid to accused at State expense in certain cases.* —(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appeas to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government, make rules providing for—

(*a*) the mode of selecting pleaders for defence under sub-section (1);

(*b*) the facilities to be allowed to such pleaders by the Courts;

(*c*) the fees payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-section (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session.

305. *Procedure when corporation or registered society is an accused.* —(1) In this section, "corporation" means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or tiral and such appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any requirement of this Code that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined.

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the Court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or tiral before a Court is or is not such representative, the question shall be determined by the Court.

306. *Tender of pardon to accomplice.*—(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor, in the commission there of.

(2) This section applies to:—

(*a*) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952).

(*b*) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall red cord—

(*a*) his reasons for so doing;

(*b*) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

(*a*) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(*b*) shall, unless he is already on bail, be detained in custody untill the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case,—

(*a*) comit it for trial—

(*i*) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(*ii*) to a Court Special Judge appointed under the Criminal law Amendment Act, 1952 (46 of 1952), if the offence is triable exclusively by that Court;

(*b*) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

307. *Power to direct tender of pardon.*—At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

308. *Trial of person not complying with, conditions of pardon.*—Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Porsecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with

the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court and nothing contained in section 195 or section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 164 or by a Court under sub-section (4) of section 306 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Court shall—

(*a*) if it is a Court of Session, before the charge is read out and explained to the accused;

(*b*) if it is the court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

309. *Power to postpone or adjourn proceedings.*—(1) In every inquiry or tiral, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisalbe to postpone the commencement of, or adjournoany inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrnat remand the accused if in custody :

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance no adjournment or postponment shall be granted, without examining them, except for special reasons to be recorded in writing.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

310. *Local inspection.*—(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or tiral, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnsihed to him free of cost.

311. *Power to summon material witness, or examine person present.*—Any Court may, at any stage of any inquiry trial or other proceeding under this Code summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recal and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears it to be essential to the just decision of the case.

312. *Expenses of complainants and witnesses.*—Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

313. *Power to examine the accused.*—(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court —

(*a*) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(*b*) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case:

Provided that in a summons-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (*b*).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for the or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

314. *Oral arguments and memorandum of arguments.*—(1) Any party to a proceeding may, as soon as may be, after the close of his evidence address concise oral arguments, and may, before he concludes the oral arguments, if any submit a memorandum to the Court setting forth concisely and under district headings the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.

(3) No adjournment of the proceedings shall be granted for the purpose of filing the writien arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

315. *Accused person to be competent witness.*—(1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(*a*) he shall not be called as a witness except on his own request in writing ;

(*b*) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

(2) Any person against whom proceedings are instituted in any Criminal Court under section 98, or section 107, or section 108, or section 109, or section 110, or under Chapter IX of under Part B, Part C or Part D of Chapter X, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 108, section 190 or section 110, the failure of such person to give evidence shall not be made the subject or any comment by any of the parties or the Court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry.

316. *No influence to be used to induce disclosure.*— Except as provided in sections 306 and 307, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or without any hold any matter within his knowledge.

317. *Provision for inquries and trial being held in the absence of accused in certain cases.*—(1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

318. *Procedure where accused does not understand proceedings.*—If the accused, though not of unsound mind, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

319. *Power to proceed against other persons appearing to be guilty of offence.*—(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), them—

(*a*) the proceedings in respect of such person shall be commenced afresh, and the witnesses reheard;

(*b*) subject to the provisions of clause (*a*), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

320. *Compounding of offences.*—(1) The offences punsishable under the sections of the Indian Penal Code (45 of 1860), specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table;—

TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force ..	352, 355, 358	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.

1	2	3
House-trespass	448	Ditto.
Criminal breach of contract of service	491	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	Ditto.
Defamation	500	The person defamed.
Printing or engraving matter, knowing in to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	Ditto.
Insult intended to provoke a breach of the peace	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.

(2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:—

TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days	344	Ditto.
Wrongfully confining a person in secret	346	Ditto.
Assault or criminal force to woman with intent to outrage her modesty.	354	The woman assaulted to whom the criminal force was used.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servent of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	Ditto.
Criminal breach of trust by a clerk or servant, where the value of the property does not exceed two hundred and fifty rupees.	408	Ditto.

1	2	3
Dishonestly receiving stolen property, knowing it to be stolen when the value of the stolen property does not exceed two hundred and fifty rupees.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen property does not exceed two hundred and fifty rupees	414	Ditto.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc, to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulentiy preventing from being made available for his creditros a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The onwer of the animal.
Mischief by killing or maiming cattle, etc., of any value or any other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrognfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Marrying again during the life time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) (*a*) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf

may, with the permission of the Court, compound such offence.

(*b*) When the person who would otherwise be competent to compound an offence under this section is dead, the legal representative, as so defined in the Code of Civil Procedure, 1908 (5 of 1908) of such person may, with the consent of the Court, compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(9) No offence shall be compounded except as provided by this section.

321. *Withdrawal from prosecution.*—The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(*b*) If it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence—

(*i*) was against any law relating to a matter to which the executive power of the Union extends, or

(*ii*) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

(*iii*) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(*iv*) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

322. *Procedure in cases which Magistrate cannot dispose of.*—(1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence apperas to him to warrant a presumption—

(*a*) that he has no jurisdiction to try the case or commit it for trial, or

(*b*) that the case is one which should be tried or committed for trial by some other Magistrate in the district, or

(*c*) that the case should be tried by the Chief Judicial Magistrate,

he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judical Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

323. *Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.*—If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing judgement that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained.

324. *Trial of persons previously convicted of offences against coinage, stamp law or property.*—(1) Where a person, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code (45 of 1860), with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, and the Magistrate before whom the case is pending is satisfied that there is ground for presuming that such person has committed the offence, he shall be sent for trial to the Chief Judicial Magistrate or committed to the Court of Session, unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to the Court of Session under sub-section (1) any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharges such other person under section 239 or section 245, as the case may be.

325. *Procedure when Magistrate cannot pass sentence sufficiently severe.*—(1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused to the Chief Judicial Magistrate to whom he is subordinate.

(2) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1), in regard to any of such accused, he shall forward all the accused, who are in his opinion guilty to the Chief Judicial Magistrate.

(3) The Chief Judicial Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law.

326. *Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.*—(1)

Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdiction the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself :

Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Code from one Magistrate to another Magistrate, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of sub-section (1).

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 322 or in which proceedings have been submitted to a superior Magistrate under section 325.

327. *Court to be open.*—The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be as open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

328. *Procedure in case of accused being lunatic.*—(1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct, and thereupon shall examine such surgeon or her officer as a witness, and shall reduce the examination to writing.

(2) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 330.

(3) If such Magistrate is of opinion that the person referred to in sub-section (1) is of unsound mind and consequently incapable of making his defence, he shall record a finding to that effect and shall postpone further proceedings in the case.

329. *Procedure in case of person of unsound mind tried before Court.*—(1) If at the trial of any person before a Magistrate or Court of Session, it appears to the the Magistrate or Court that such person is of sound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Magistrate or Court.

330. *Release of lunatic pending investigation or trial.*—(1) Whenever a person is found, under section 328 or section 329, to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

(2) If the case is one in which, in the opinion of the Magistrate Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the State Government :

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912 (4 of 1912).

331. *Resumption of inquiry or trial.*—(1) Whenever an inquiry or a trial is postponed under section 328 or section 329, the Magistrate or Court, as the case, may be, may any time after the person concerned has ceased to be of unsound mind resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 330, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

332. *Procedure on accused appearing before Magistrate or Court.*—(1) If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall act according to the provisions of section 328 or section 329, as the case may be, and if the accused os found to be of unsound mind and consequently incapable of making his defence, shall deal with such accused in accordince with the provisions of section 330.

333. *When accused appears to have been of sound mind.*—When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be tried by the

Court of Session, commit him for trial before the Court of Session.

334. *Judgment of acquittal on ground of unsoundness of mind.*—Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

335. *Person acquitted on such ground to be detained in safe custody.*—(1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence,—

(*a*) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(*b*) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a lunatic asylum shall be made under clause (*a*) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912 (4 of 1912).

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (*b*) of sub-section (1), except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person;

(*b*) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

336. *Power of State Government to empower officer in charge to discharge.*—The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 330 or section 335 to discharge all or any of the functions of the Inspector-General of Prisons under section 337 or section 338.

337. *Procedure where lunatic prisoner is reported capable of making his defence.*—If such person is detained under the provisions of sub-section (2) of section 330, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 332; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

338. *Procedure where lunatic detained is declared fit to be released.*—(1) If such person is detained under the provisions of sub-section (2) of section 330, or section 335, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(2) Such Commission shall make a formal inquiry into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit.

339. *Delivery of lunatic to care of relative or friend.*—(1) Whenever any relative or friend of any person detained under the provisions of section 330 or section 335 desires that he shall be delivered to his care and custody, the State Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such State Government, that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person;

(*b*) be produced for the inspection of such officer, and at such times and places, as the State Government may direct;

(*c*) in the case of a person detained under sub-section (2) of section 330, be produced when required before such Magistrate or Court.

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in clause (*b*) of sub-section (1), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 332, and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

340. *Procedure in cases mentioned in section* 195.—(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (*b*) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

(*a*) record a finding to that effect;

(*b*) make a complaint thereof in writing;

(*c*) send it to a Magistrate of the first class having jurisdiction;

(*d*) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(*e*) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinace within the meaning of sub- section (4) of section 195.

(3) A complaint made under this section shall be signed.

(*a*) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(*b*) in any other case, by the presiding officer of the Court.

(4) In this section, "Court" has the same meaning as in section 195.

341. *Appeal.* (1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any such order, and order under section 340, shall be final and shall not be subject to revision.

342. *Power to order costs.* Any Court dealing with an application made to it for filing a complaint under section 340 or an appeal under section 341, shall have power to make such order as to costs as may be just.

343. *Procedure of Magistrate taking cognizance.*—(1) A Magistrate to whom a complaint is made under section 340 or section 341 shall, notwithstanding anything contained in Chapter XV, proceed, as far as may be, to deal with the case as if it were instituted on a police report.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

344. *Summary procedure for trial for giving false evidence.* (1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or with both.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court to make a complaint under section 340 for the offence, where it does not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1), it is made to appear to the Court of Session or Magistrate of the first class that an appeal or an application for revision has been preferred or filed against the judgment or order in which the opinion referred to in that sub-section has been expressed, it or he shall stay further proceedings of the trial until the disposal of the appeal or the application for revision, as the case may be, and thereupon the further proceedings of the trial shall abide by the results of the appeal or application for revision.

345. *Procedrre in certain cases of contempt.*—(1) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender to be detained in custody and may, at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

346. *Procedure where Court considers that case should not be dealt with under section* 345.—(1) If the Court in any case considers that a person accused of any of the offences referred to in section 345 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 345, such Court after recording the facts constituting the offence and the statement of the accused as hereinbefore, provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance on such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report.

347. *When Registrar or Sub-Registrar to be deemed a Civil Court.*—When the State Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1808 (16 of 1908), shall be deemed to be a Civil Court within the meaning of sections 345 and 346.

348. *Discharge of offender on submission of apology.*—When any Court has under section 345 adjudged an offender to punishment, or has under section 346 forwarded him to a Magistrate for trial, for refusing or omitting

to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

349. *Imprisonment or committal of person refusing to answer or produce document.*—If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 345 or section 346.

350. *Summary procedure for punishment for non-attendance by a witness in obedience to summons.*—(1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

351. *Appeals from convictions under sections* 344, 345, 349 *and* 350.—(1) Any person sentenced by any Court other than a High Court under section 344, section 345, section 349, or section 350 may, notwithstanding anything contained in this Code appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXIX shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 347 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub-Registrar is situate.

352. *Certain Judges and Magistrates not to try certain offences when committed before themselves.*—Except as provided in sections 344, 345, 349 and 350, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

CHAPTER XXVII

THE JUDGMENT

353. *Judgment.*—(1) The judgment in evry trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time of which notice shalll be given to the parties or their pleaders,—

(*a*) by delivering the whole of the judgment; or

(*b*) by reading out the whole of the judgment; or

(*c*) by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his pleader.

(2) Where the judgment is delivered under clause (*a*) of sub-section (1), the presiding officer shall cause it to be taken down in short-hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (*b*) or clause (*c*) of sub-section (1), as the case may be, it shall be dated and signed by the presiding officer in open Court, and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (*c*) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced.

(6) If the accused is not in custody, he shall be required by the Court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

Provided that, where there are more accused than one, and one or more of them do not attend the Court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 465.

354. *Language and contents of judgment.*—(1) Except as otherwise expressly provided by this Code, every judgment referred to in section 353,—

(*a*) shall be written in the language of the Court;

(*b*) shall contain the point or points for determination, the decision thereon and the reasons for the decision;

(*c*) shall specify the offence (if any) of which, and the section of the Indian Penal Code (45 of 1860) or other law under which, the accused is convicted and the punishment to which he is sentenced;

(*d*) if it be a judgment of acquittal, shall state the offence of which the accused is equitted and direct that he be set at liberty.

(2) When the conviction is under the Indian Penal Code (45 of 1860) and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub-section (2) of section 138 and every final order made under section 125, section 145 or section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

355. *Metropolitan Magistrate's judgment.*—Instead of recording a judgment in the manner hereinbefore provided, a Metropolitan Magistrate shall record the following particulars, namely:—

(*a*) the serial number of the case;
(*b*) the date of the commission of the offence;
(*c*) the name of the complainant (if any);
(*d*) the name of the accused person, and his parentage and residence;
(*e*) the offence complained of or proved;
(*f*) the plea of the accused and his examination (if any);
(*g*) the final order;
(*h*) the date of such order;
(*i*) in all cases in which an appeal lies from the final order either under section 373 or under sub-section (3) of section 374, a brief statement of the reasons for the decision.

356. *Order for notifying address of previously convicted offender.* (1) When any person, having been convicted by a Court in India of an offence punishable under section 215, section 489A, section 489B, section 489C or section 489D of the Indian Penal Code (45 of 1860), or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by any Court other than that of a Magistrate of the second class, such Court may, if it thinks fit, at the time of passing a sentence of imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) The provisions of sub-section (1) with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences and attempts to commit them.

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) The State Government may, by notification, make rules to carry out the provisions of this section relating to the notification of residence or change of, or absence from, residence by released convicts.

(6) Such rules may provide for punishment for the breach thereof and any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated

357. *Order to pay compensation.*—(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying the expenses properly incurred in the prosecution;
(*b*) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
(*c*) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;
(*d*) when any person is convicted of any offence which includes theft, criminal mis-appropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

358. *Compensation to persons ground lessly arrested.*—(1) Whrnever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one hundred rupees, to be paid by the person so causing the arrest to the person so

arrested, for his loss of time and expesnes in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding one hundred rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

359. *Order to pay costs in non-cognizable cases.*—(1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and pleader's fees which the Court may consider reasonable.

(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

360. *Order to release on probation of good conduct or after admonition.*—(1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved, against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to the necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code (45 of 1860) punishable with not more than two years' imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offnece or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Sesson when exercising its powers of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before dir cting the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958 (20 of 1958) or the Children Act, 1960 (60 of 1960), or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

361. *Special reasons to be recorded in certain cases.* – Where in any case the Court could have dealt with,—

(*a*) an accused person under section 360 or under the provisions of the Probation of Offenders Act, 1958 (20 of 1958), or

(*b*) a youthful offender under the Children Act, 1960, (60 of 1960), or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special reasons for not having done so.

362. *Court not to alter judgment.*—Save as otherwis provided by this Code or by any other law for the tim being in force, no Court, when it has signed its judgmen

or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

363. *Copy of judgment to be given to the accused and other persons.*—(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) on the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record:

Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost.

(6) The High Court may, by rules, provide for the grant of copies of any judgment or order or a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

364. *Judgment when to be translated.*—The original judgment shall be filed with the record of the proceedings and where the orignal is recorded in a language different from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

365. *Court of Session to send copy of finding and sentence to District Magistrate.*—In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

366. *Sentence of death to be submitted by Court of Session for confirmation.*—(1) When the Court of Session passes a sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

(2) The Court passing the sentence shall commit the convicted person to jail custody under a warrant.

367. *Power to direct further inquiry to be made or additional evidence to be taken.*—(1) if, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such Court.

368. *Power of High Court to confirm sentence or annual conviction.*—In any case submitted under section 366, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Court of Session might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

369. *Confirmation or new sentence to be signed by two Judges.*—In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

370. *Procedure in case of difference of opinion.*—Where any such case is heard before a Bench of Judges and such Judges are eqaully divided in opinion, the case shall be decided in the manner provided by section 392.

371. *Procedure in cases submitted to High Court for confirmation.*—In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

CHAPTER XXIX

APPEALS

372. *No appeal to lie unless otherwise provided.*—No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

373. *Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.*—Any person,—

(*i*) who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(*ii*) who is aggrieved by any order refusing to accept or rejecting a surety under section 121,

may appeal against such order to the Court of Session:

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) of sub-section (4) of section 122.

374. *Appeals from convictions.*—(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed; may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any persons,—

(*a*) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class, or of the second class, or

(*b*) sentenced under section 325, or

(*c*) in respect of whom an order has been made or a sentence has been passed under section 360 by any Magistrate, may appeal to the Court of Session.

375. *No appeal in certain cases when accused pleads guilty.*—Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,—

(*a*) if the conviction is by a High Court; or

(*b*) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.

376. *No appeal in petty cases.*—Notwithstanding anything contained in section 374, there shall be no appeal by a convicted person in any of the following cases, namely:—

(*a*) where a High Court passes only a sentence of imprisonment for a term not exceeding six months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;

(*b*) where a Court of Session or a Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;

(*c*) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or

(*d*) where, in a case tried summarily, a Magistrate empowered to act under section 260 passes only a sentence of fine not exceeding two hundred rupees:

Provided that an appeal may be brought against any such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground—

(*i*) that the person convicted is ordered to furnish security to keep the peace; or

(*ii*) that a direction for imprisonment in default of payment of fine is included in the sentence; or

(*iii*) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.

377. *Appeal by the State Government against sentence.*—(1) Save as otherwise provided in sub-section (2), the State Government may, in any case of conviction on a trial held by any Court other than a High Court, direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of its inadequacy.

(2) If such conviction is in a case in which the offence has been investigated by the Delhi Special Police Establishment, constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of its inadequacy.

(3) When an appeal has been filed against the sentence on the ground of its inadequacy, the High Court shall not enhance the sentence except after giving to the accused a reasonable opportunity of showing cause against such enhancement and while showing cause, the accused may plead for his acquittal or for the reduction of the sentence.

378. *Appeal in case of acquittal.*—(1) Save as otherwise provided in sub-section (2) and subject to the provisions of sub-sections (3) and (5), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub-section (3), to the High Court from the order of acquittal.

(3) No appeal under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

379. *Appeal against conviction by High Court in certain cases.*—Where the High Court has, on appeal, reversed an order of acquittal of an accused person and convicted him and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court.

380. *Special right of appeal in certain cases.*—Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any

of such persons, all or any of the persons convicted at such trial shall have a right of appeal.

381. *Appeal to Court of Session how heard.*—(1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second class may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.

(2) An Additional Sessions Judge, Assistant Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

382. *Petition of appeal.*—Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against.

383. *Procedure when appellant in jail.*—If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

384. *Summary dismissal of appeal.*—(1) If upon examining the petition of appeal and copy of the judgment received under section 382 or section 383, the Appellate Court considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that

(*a*) no appeal presented under section 382 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same;

(*b*) no appeal presented under section 383 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the Court would involve such inconvenience as would be disproportionate in the circumstances of the case;

(*c*) no appeal presented under section 383 shall be dismissed summarily until the period allowed for preferring such appeal has expired.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 383 has been dismissed summarily under this section and the Appellate Court finds that another petition of apeal duly presented under section 382 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 393, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

385. *Procedure for hearing appeals not dismissed summarily.* (1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given—

(*i*) to the appellant or his pleader;

(*ii*) to such officer as the State Government may appoint in this behalf;

(*iii*) if the appeal is from a judgment of conviction in a case instituted upon complaint, to the complainant;

(*iv*) if the appeal is under section 377 or section 378, to the accused, and shall also furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the case, if such record is not already available in that Court, and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the Court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not, except with the leave of the Court, urge or be heard in support of any other ground.

386. *Powers of the Appellate Court,*—After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he apears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction—

(*i*) reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or

(*ii*) alter the finding, maintaining the sentence, or

(*iii*) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same;

(*c*) in an appal for enhancement of sentence—

(*i*) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by a Court competent to try the offence, or

(*ii*) alter the finding maintaining the sentence, or

(*iii*) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, so as to enhance or reduce the same;

(*d*) in an appeal from any other order, alter or reverse such order;

(*e*) make any amendment or any consequential or incidental order that may be just or proper:

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause agsinst such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal.

387. *Judgments of sub ordinate Appellate Court.*—The rules contained in Ghapter XXVII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

388. *Order of High Court on appeal to be certified to lower Court.*—(1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed and if such Court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate; and if such Court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and if necessary, the record shall be amended in accordance therewith.

389. *Suspension of sentence pending the appeal; release of appellant on bail.*—(1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto.

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

(*i*) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or

(*ii*) where the offence of which such person has been convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

390. *Arrest of accused in appeal from acquittal.*—When an appeal is presented under section 378, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

391. *Appellate Court may take further evidence or direct it to be taken.*—(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.

392. *Procedure where Judges of Court of Appeal are equally divided.*—When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that Court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

393. *Finality of judgments and orders on appeal.*—Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the cases provided for in section 377, section 378, sub-section (4) of section 384 or Chapter XXX:

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispse of, on the merits,—

(*a*) an appeal against acquittal under section 378, arising out of the same case, or

(*b*) an appeal for the enhancement of sentence under section 377, arising out of the same case.

394. *Abatement of appeals.*—(1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty day of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.—In this section, "near relative" means a parent, spouse, lineal descendant, brother or sister.

CHAPTER XXX

REFERENCE AND REVISION

395. *Reference to High Court.*—(1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, "Regulation" means any Regulation as defined in the General Clauses Act, 1897 (10 of 1897), or in the General Clauses Act, of a State.

(2) A Court of Session or a Metropolitan Magistrate may, if it or he thinks fit in any case pending before it or him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any Court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

396. *Disposal of case according to decision of High Court.*—(1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Court by which the reference was made, which shall dispose of the case conformably to the said order.

(2) The High Court may direct by whom the costs of such reference shall be paid.

397. *Calling for records to exercise powers of revision.*—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation –All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same persons shall be entertained by the other of them.

398. *Power to order inquiry.*—On examining any record under section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (4) of section 204, or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

399. *Sessions Judge's powers of revision.*—(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

400. *Power of Additional Sessions Judge.*—An Additional Session Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

401. *High Court's powers of revision.*—(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interest of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

402. *Power of High Court to withdraw or transfer revision cases.*—(1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the questions involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that the applications for revision should be disposed of by itself, the High Court shall direct that the applications for revision pending before the Sessions Judge be transferred to itself and where the High Court decides that it is not necessary for it to dispose of the applications for revision, it shall direct that the applications for revision made to it be transferred to the Sessions Judge.

(2) Whenever any application for revision is transferred to the High Court, that Court shall deal with the same as if it were an application duly made before itself.

(3) Whenever any application for revision is transferred to the Sessions Judge, that Judge shall deal with the same as if it were an application duly made before himself.

(4) Where an application for revision is transferred by the High Court to the Sessions Judge, no further application for revision shall lie to the High Court or to any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

403. *Option of Court to hear parties.*—Save as otherwise expessly provided by this Code, no party has any right to be heard either personally or by pleader before, any Court exercising its powers of revision; but the Court may, if it thinks fit, when exercising such powers hear any party either personally or by pleader.

404. *Statement by Metropolitan Magistrate of grounds of his decision to be considered by High Court.*—When the record of any trial held by a Metropolitan Magistrate is called for by the High Court or Court of Session under section 397, the Magistrate may submit with the record statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

405. *High Court's order to be certified to lower Court.*—When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 388, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court to which the decision to order is so certified shall thereupon make such orders as are conformable to the decision so certified: and, if necessary, the record shall be amended in accordance therewith.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

406. *Power of Supreme Court to transfer cases and appeals.*—(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Crimal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion, which shall except when the applicant is the Attorney-General of India or the Advocate-General of the State be supported by affidavit or affirmation.

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.

407. *Power of High Court to transfer cases and appeals.*—(1) Whenever it is made to appear to the High Court—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order—

(*i*) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(*ii*) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(*iii*) that any particular case be committed for trial to a Court of Session; or

(*iv*) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the Hugh Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court's power of remand under section 309.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before, itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197.

408. *Power of Sessions Judge to transfer cases and appeals.* (1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 407 except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein the words "two hundred and fifty rupees" were substituted.

409. *Withdrawal of cases and appeals by Sessions Judges.* (1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to any Assistant Sessions Judge or Chief Judicial Magistrate subordinate to him.

(2) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, a Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(3) Where a Sessions Judge withdraws or recalls a case or appeal under sub-section (1) or sub-section (2), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.

410. *Withdrawal of cases by Judicial Magistrates.*— (1) Any Chief Judicial Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and (may inquire into or try such case himself, or refer it for inquiry or trial to any such Magistrate competent to inquire into or try the same. other

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of section 192 to any other Magistrate and may inquire into or try such case himself

411. *Making over or withdrawal of cases by Executive Magistrates.*—Any District Magistrate or Sub-divisional Magistrate may—

(*a*) make over, for disposal, any proceeding which has been started before him, to any Magistrate subordinate to him.

(*b*) withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and dispose of such proceeding himself or refer it for disposal to any other Magistrate.

412. *Reasons to be recorded.* A Sessions Judge or Magistrate making an order under section 408, section 409, section 410 or section 411 shall record his reasons for making it.

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A—*Death Sentences*

413. *Execution of order passed under section* 368.— When in a case submitted to the High Court for the confirmation of a sentance of dealth, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

414. *Execution of sentence of death passed by High Court.*—When a sentence of death is passed by the High Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court cause the sentence to be carried into effect by issuing a warrant.

415. *Postponement of execution of sentence of death in case of appeal to Supreme Court.*—(1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (*a*) or sub-clause (*b*) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until the period allowed for preferring such appeal has expired, or, if an appeal is preferred within that period, until such appeal is disposed of.

(2) Where a sentence of death is passed or confirmed by the High Court, and the person sentenced makes an application to the High Court for the grant of a certificate under article 132 or under sub-clause (*c*) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application, until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired.

(3) Where a sentence of death is passed or confirmed by the High Court and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition.

416. *Postponement of capital sentence on pregnant woman.*—If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to imprisonment for life.

B—Imprisonment

417. *Power to appoint place of imprisonment.*— (1) Except when otherwise provided by any law for the time being in force, the State Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been released from the civil jail under section 58 of the Code of Civil Procedure, 1908 (5 of 1908), or section 23 of the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be; or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer-in-charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908 (5 of 1908), or under section 23 of the Provincial Insolvency Act, 1920 (5 of 1920), as the case may be.

418. *Execution of sentence of imprisonment.*—(1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 413, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place shall forward him to such jail or other, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

419. *Direction of warrant for execution.*—Every warrant for the execution of a sentence of imprisonment shall be directed to the officer-in-charge of the jail or other place in which the prisoner is, or is to be, confined.

420. *Warrant with whom to be lodged.*—When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

C—*Levy of fine*

421. *Warrant for levy of fine.*—(1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(*a*) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(*b*) issue a warrant to the Collector of the district authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offedenr shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.

(2) The State Government may make rules regulating the manner in which warrants under clause (*a*) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (*b*) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

422. *Effect of such warrant.*—A warrant issued under clause (*a*) of sub-section (1) of section 421 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found.

423. *Warrant for levy of fine issued by a Court in any territory to which this Code does not extend.*—Notwithstanding anything contained in this Code or in any other law for the time being in force when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Code does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Code extends, authorising him to realise the amount as if it were an arrear of land revenue such warrant shall be deemed to be warrant issued under clause (*b*) of sub-section (1) of section 421 by a Court in the territories to which this Code extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

424. *Suspension of execution of sentence of imprisonment.*—(1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals as the case may be of not more than thirty days;

(*b*) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order

has been made. on being required to enter into a bond such as is referred to in that sub-section fails to do so, the Court may at once pass sentence of imprisonment.

D—General provisions regarding execution

425. *Who may issue warrant.*—Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

426. *Sentence on escaped convict when to take effect.*—(1) When a sentence of death. imprisonment for life or fine is passed under this Code on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.

(2) When a sentence of imprisonment for a term is passed under this Code on an escaped convict,—

(*a*) if such sentence is severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately;

(*b*) if such sentence is not severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which at the time of his escape, remained unexpired of his former sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

427. *Sentence on offender already sentenced for another offence.*—(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergong such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

428. *Period of detention undergone by the accused to be set off against the sentence of imprisonment.*—Where an accused person has, on conviction, been sentenced to imprisonment for a term, the period of detention if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him.

429. *Saving.*—(1) Nothing in section 426 or section 427 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

430. *Return of warrant on execution of sentence.*—When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it is issued. with an endorsement under his hand certifying the manner in which the sentence has been executed.

431. *Money ordered to be paid recoverable as a fine.*—Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine:

Provided that section 421 shall, in its application to an order under section 359, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 421, after the words and figures "under section 357" the words and figures "or an order for payment of cost under section 359" had been inserted.

E—Suspension, remission and commutation of sentences

432. *Power to suspend or remit sentences.*—(1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also forward with his statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government not fulfilled, the appropriate Government may cancel the suspension or remission, and there upon the person in whose favour the sentence has been suspended, or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, gives directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by anyother person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(*a*) where such petition is made by the person sentenced, it is presented through the officer-in-charge of the jail; or

(*b*) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-section shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 433, the expression "appropriate Government" means,—

(*a*) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(*b*) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

433. *Power to commute sentence.*—The appropriate Government may, without the consent of the person sentenced, commute—

(*a*) a sentence of death, for any other punishment provided by the Indian Penal Code (45 of 1860)

(*b*) a sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine;

(*c*) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced, or for fine;

(*d*) a sentence of simple imprisonment, for fine.

434. *Concurrent power of Central Government in case of death sentences.*—The powers conferred by sections 432 and 433 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

435. *State Government to act after consultation with Central Government in certain cases.*—(1) The powers conferred by sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence—

(*a*) which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, or

(*b*) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(*c*) which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

shall not be exercised by the State Government except after consultation with the Central Government.

(2) No order of suspension remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect unless an order for the suspension, remission or commutation as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

436. *In what cases bail to be taken.*—(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrent by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may, instead or taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116.

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

437. *When bail may be taken in case of non-bailable offence.*—(1) When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life:

Provided that the Court may direct that any person under the age of sixteen years or any women or any sick or inform person accused of such an offence be released on bail:

Provided further that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending, such inquiry, be released on bail, or, at the discretion of such officer or Court on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code (45 of 1860) or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court may impose any condition which the Court considers necessary -

(*a*) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or

(*b*) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or

(*c*) otherwise in the interests of justice.

(4) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate other-wise directs.

(7) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

438. *Direction for grant of bail to person apprehending arrest.*- (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(*i*) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(*ii*) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(*iii*) a condition that the person shall not leave India without the previous permission of the Court;

(*iv*) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

439. *Special powers of High Court or Court of Session regarding bail.*—(1) A High Court or Court of Session may direct—

(*a*) that any person accused of an offience and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(*b*) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

440. *Amount of bond and reduction thereof.*—(1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The High Court or Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

441. *Bond of accused and sureties.*—(1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

442. *Discharge from custody.*—(1) As soon as the bond has been executed, the person for whose appearance

it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

(2) Nothing in this section, section 436 or section 437 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

443. *Power to order sufficient bail when that first taken is insufficient.*—If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

444. *Discharge of sureties.*—(1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrent of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to fined other sufficient sureties, and, if he fails to do so, may commit him to jail.

445. *Deposit instead of recognizance.*—When any person is required by any Court or officer to execute a bond with or without sureties such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

446. *Procedure when bond has been forfeited.*—(1) Where a bond under this Code is for appearance or for production of property, before a Court and it is proved to the satisfaction of that Court or of any court to which the case has subsequently been transferred, that the bond has been forfeited.

or where, in respect of any other bond under this Code, it is proved to the satisfaction of the Court by which the bond was taken or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited,

The Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation.—A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Code.

(3) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(5) Where any person who has furnished security under section 106 or section 117 or section 360 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 448, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

447. *Procedure in case of insolvency or death of surety or when a bond is forfeited.*—When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 446, the Court by whose order shall bond was taken or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

448. *Bond required from minor.*—When the person required by any Court, or officer to execute a bond is a minor, such Court or officer may accept, in lieu, thereof, a bond executed by a surety or sureties only.

449. *Appeal from orders under section* 446.—All orders passed under section 446 shall be appealable,—

(*i*) in the case of an order made by a Magistrate, to the Sessions Judge;

(*ii*) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

450. *Power to direct levy of amount due on certain recognizances.*—The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

CHAPTER XXXIV

Disposal of Property

451. *Order for custody and disposal of property pending trial in certain cases.*—When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes of this section, "property" includes—

(*a*) property of any kind or document which is produced before the Court or which is in its custody,

(*b*) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

452. *Order for disposal of property at conclusion of trial.* –(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in section 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

453. *Payment to innocent purchaser of money found on accused.*—When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

454. *Appeal against orders under section 452 or section 453.*—(1) Any person aggrieved by an order made by a Court under section 452 or section 453, may appeal against it to the Court to which appeals ordinarily lie from convictions by the former Court.

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annual the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made.

455. *Destruction of libellous and other matter.*—(1) On a conviction under section 292, section 293, section 501 or section 502 of the Indian Penal Code (45 of 1860), the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under section 272, section 273, section 274 or section 275 of the Indian Penal Code, (45 of 1960) order the food, drink, drug or medical preparation in respect of which the conviction was had, the to be destroyed.

456. *Power to restore possession of immovable property.*—(1) When a person is convicted of an offence attended by criminal force or show the force or by criminal intimidation, and it appears to the Court that, by such force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Provided that no such order shall be made by the Court more than one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order under sub-section (1), the Court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions of section 454 shall apply in relation thereto as they apply in relation to an order under section 453.

(4) No order made under this section shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

457. *Procedure by police upon seizure of property.*—(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

458. *Procedure where no claimant appears within six months.*—(1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the Magistrate may by order direct that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as may be prescribed.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

459. *Power to sell perishable property.*—If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure

is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten rupees, the Magistrate may at any time direct it to be sold; and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

460. *Irregularities which do not vitiate proceedings.*—If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search-warrant under section 94;

(*b*) to order, under section 155, the police to investigate an offence;

(*c*) to hold an inquest under section 176;

(*d*) to issue process under section 187, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;

(*e*) to take cognizance of an offence under clause (*a*) or clause (*b*) of sub-section (1) of section 190;

(*f*) to make over a case under sub-section (2) of section 192;

(*g*) to tender a pardon under section 306;

(*h*) to recall a case and try it himself under section 410; or

(*i*) to sell property under section 458 or section 459,

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

461. *Irregularities which vitiate proceedings.*—If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 83;

(*b*) issues a search-warrant for a document, parcel or other thing in the custody of a postal or telegraph authority;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order for maintenance;

(*h*) makes an order under section 133 as to a local nuisance;

(*i*) prohibits, under section 143, the repetition or continuance of a public nuisance;

(*j*) makes an order under Part C or Part D of Chapter X;

(*k*) takes cognizance of an offence under clause (*c*) of sub-section (1) of section 190;

(*l*) tries an offender;

(*m*) tries an offender summarily;

(*n*) passes a sentence, under section 325, on proceedings recorded by another Magistrate;

(*o*) decides an appeal;

(*p*) calls, under section 397, for proceedings; or

(*q*) revises an order passed under section 446, his proceedings shall be void.

462. *Proceedings in wrong place.*—No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

463. *Non-compliance with provisions of section* 164 *or section* 281.—(1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 164 or section 281, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 91 of the Indian Evidence Act, 1872 (1 of 1872), take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

464. *Effect of omission to frame, or absence of, or error in, charge.*—(1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal, confirmation or revision is of opinion that a failure of justice has in fact been occasioned, it may—

(*a*) in the case of an omission to frame a charge, order that a charge be framed and that the trial be recommenced from the point immediately after the framing of the charge;

(*b*) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

465. *Finding or sentence when reversible by reason of error, omission or irregularity.*—(1) Subject to the provisions hereinbefore contained no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

466. *Defect or error not to make attachment unlawful.*—No attachment made under this Code shall be deemed unlawful, nor shall any person making the same be

deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

CHAPTER XXXVI

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

467. *Definitions.*—For the purposes of this Chapter, unless the context otherwise requires, "period of limitation, means the period specified in section 468 for taking cognizance of an offence.

468. *Bar to taking cognizance after lapse of the period of limitation.*—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(*a*) six months, if the offence is punishable with fine only;

(*b*) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(*c*) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

469. *Commencement of the period of limitation.*—(1) The period of limitation, in relation to an offender, shall commence,—

(*a*) on the date of the offence; or

(*b*) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(*c*) where it is not known by whom the offence was committeed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

470. *Exclusion of time in certain cases.*—(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender—

(*a*) has been absent from India or from any territory outside India which is under the administration of the Central Government, or

(*b*) has avoided arrest by absconding or concealing himself, shall be excluded.

471. *Exclusion of date on which Court is closed.*—Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court re-opens.

Explanation.—A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

472. *Continuing offence.*—In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

473. *Extension of period of limitation in certain cases.*—Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

CHAPTER XXXVII

MISCELLANEOUS

474. *Trials before High Courts.*—When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a Court of Session would observe if it were trying the case.

475. *Delivery to commanding officers of persons liable to be tried by Court-martial.*—(1) The Central Government may make rules consistent with this Code and the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of 1950), and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, naval or air force law, or such other law, shall be tried by a Court to which this Code applies or by a Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code applies or by a Court-martial such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military, naval or air force station, as the case may be, for the purpose of being tried by a Court-martial.

Explanation.—In this section—

(*a*) "unit" includes a regiment, corps, ship, detachment, group, battalion or company,

(*b*) "Court-martial" includes any tribunal with the powers similar to those of a Court-martial constituted under the relevant law applicable to the Armed Forces of the Union.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any unit or body of soldiers, sailors or airman stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

(3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

476. *Forms.*—Subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

477. *Power of High Court to make rules.*—(1) Every High Court may, with the previous approval of the State Government, make rules—

(*a*) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it;

(*b*) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them;

(*c*) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;

(*d*) any other matter which is required to be, or may be, prescribed.

(2) All rules made under this section shall be published in the Official Gazette.

478. *Power to alter functions allocated to Judicial and Executive Magistrates in certain cases.*—If the State Legislature by a resolution so requires, the State Government may, after consultation with the High Court, by notification, direct that—

(*a*) references in sections 108, 109 and 110 to a Judicial Magistrate of the first class shall be construed as references to an Executive Magistrate;

(*b*) references in sections 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first Class.

479. *Case in which Judge or Magistrate is personally interested.*—No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any case by reason only that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed or any other place in which any other transaction material to the case is alleged to have occurred and made an inquiry in connection with the case.

480. *Practising pleader not to sit as Magistrate in certain Courts.*—No pleader who practises in the Court of any Magistrate shall sit as Magistrate in that Court or in any Court within the local jurisdiction of that Court.

481. *Public servant concerned in sale not to purchase or bid for property.*—A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

482. *Saving of inherent powers of High Court.*—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

483. *Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates.*—Every High Court shall so exercise its superintendent over the Courts of Judicial Magistrates subordinatce to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.

484. *Repeal and savings.*—(1) The Code of Criminal Procedure, 1898 (5 of 1898), is hereby repealed.

(2) Notwithstanding such repeal,—

(*a*) if, immediately before the date on which this Code comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), as in force immediately before such commencement (hereinafter referred to as the Old Code), as if this Code had not come into force:

Provided that every inquiry under Chapter XVIII of the Old Code, which is pending at the commencement of this Code, shall be dealt with and disposed of in accordance with the provisions of this Code;

(*b*) all notifications published, proclamations issued, powers conferred, forms prescribed, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the Old Code and which are in force immediately before the commencement of this Code, shall be deemed, respectively, to have been published, issued, conferred, prescribed, defined, passed or made under the corresponding provisions of this Code;

(*c*) any sanction accorded or consent given under the Old Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Code and proceedings may be commenced under this Code in pursuance of such sanction or consent;

(*d*) the provisions of the Old Code shall continue to apply in relation to every prosecution against a ruler within the meaning of article 363 of the Constitution.

(3) Where the period prescribed for an application or other proceeding under the Old Code had expired on or before the commencement of this Code nothing in this Code shall be construed as enabling any such application to be made or proceeding to be commenced under this Code by reason only of the fact that a longer period therefor is prescribed by this Code or provisions are made in this Code for the extension of time.

THE FIRST SCHEDULE

CLASSIFICATION OF OFFENCES

Explanatory Note.—(1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule; (*i*) the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not Executive Magistrates; (*ii*) the word "cognizable" stands for "a police officer may arrest without warrant"; and (*iii*) the word "non-cognizable" stands for "a police officer shall not arrest without warrant".

I.—OFFENCES UNDER THE INDIAN PENAL CODE

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
	CHAPTER V—ABETMENT				
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	Same as for offence abetted.	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto.	Ditto	Ditto	Ditto
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Same as for offence intended to be abetted.	Ditto	Ditto	Ditto
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Same as for offence committed.	Ditto	Ditto	Ditto
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto
115	Abetment of an offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable	Ditto
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto
117	Abetting the commission of an offence by the public, or by more than ten persons.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto

1	2	3	4	5	6
118	Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence be committed.	Imprisonment for 7 years and fine.	According as offence abetted is cognizable or non-cognizable.	Non-bailable	Court by which offence abetted is triable.
	If the offence be not committed.	Imprisonment for 3 years and fine.	Ditto	Bailable	Ditto
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable.	Ditto
	If the offence be punishable with death or imprisonment for life.	Imprisoment for 10 years.	Ditto	Non-bailable.	Ditto
	If the offence be not committed.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto	Bailable	Ditto
120	Concealing a design to commit an offence punishable with imprisonment, if offence be committed.	Ditto	Ditto	According as offence abetted is bailable or non-bailable.	Ditto
	If the offence be not committed.	Imprisonment extending to one-eighth part of the longest term provided for the offence, or fine, or both.	Ditto	Bailable	Ditto
	CHAPTER VA—CRIMINAL CONSPIRACY				
120B	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for term of 2 years or upwards.	Same as for abetment of the offence which is the object of the conspiracy.	According as the offence which is the object of conspiracy is cognizable or non-congnizable.	According as offence which is object of conspiracy is bailable or non-bailable.	Court by which abetment of the offence which is the object of conspiracy is triable.
	Any other criminal conspiracy.	Imprisonment for 6 months, or fine, or both.	Non-cognizable.	Bailable	Magistrate of the first class.
	CHAPTER VI—OFFENCES AGAINST THE STATE				
121	Waging or attempting to wage war, or abetting the waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Congnizable	Non-bailable	Court of Session.
121 A	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
122	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
123	Concealing with intent to facilitate a design to wagewar.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto

1	2	3	4	5	6
124	Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Court of Session.
124A	Sedition.	Imprisonment for life and fine, or imprisonment for 3 years and fine, or fine.	Ditto	Ditto	Ditto
125	Waging war against any Asiatic power in alliance or at peace with the Government of India, or abetting the waging of such war.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Ditto	Ditto	Ditto
126	Committing depredation on the territories of any power in alliance or at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Ditto	Ditto	Ditto
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Ditto	Bailable	Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.

CHAPTER VII—OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131	Abetting mutiny, or attempting to seduce an officer, soldier, sailor or airman from his allegiance or duty.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
133	Abetment of an assault by an officer, soldier, sailor or airman on his superior officer, when in the execution of his office.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto

1	2	3	4	5	6
135	Abetment of the desertion of an officer, soldier, sailor or airman.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Any Magistrate
136	Harbouring such an officer, soldier, sailor or airman who has deserted.	Ditto	Ditto	Ditto.	Ditto
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Fine of 500 rupees.	Non-cognizable.	Ditto	Ditto
138	Abetment of act insubordination by an officer solider, sailor or airman if the offence be committed in consequence.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto
140	Wearing the dress or carrying any token used by a soldier, sailor or airman with intent that it may be believed that he is such a soldier, sailor or airman.	Imprisonment, for 3 months or fine of 500 rupees or both.	Ditto	Ditto	Ditto
	CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY				
143	Being member of an unlawful assembly.	Imprisonment for 6 months. or fine, or both.	Congnizable	Bailable	Ditto
144	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Ditto
147	Rioting	Ditto	Ditto	Ditto	Ditto
148	Rioting, armed with a deadly weapon.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	The same as for the offence.	According as offence is cognizable or non-cognizable.	According as offence is bailable or non-bailable.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Cognizable	Ditto	Ditto
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Imprisonment for 6 months, or fine, or both.	Ditto	Bailable	Any Magistrate
152	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153	Want only giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate
	If not committed	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153A	Promoting enmity between classes	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto
	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
153B	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto

1	2	3	4	5	6
	If committed in a place of public worship, etc.	Imprisonment for 5 years and fine.	Cognizable	Non-bailable	Magistrate of the 1st class.
154	Owner or occupier of land not giving information of riot, etc.	Fine of 1,000 rupees.	Non-cognizable	Bailable	Any Magistrate
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Fine	Ditto	Ditto	Ditto
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto
157	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto
	Or to go armed	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
160	Committing affray	Imprisonment for one month, or fine of 100 rupees, or both.	Ditto	Ditto	Ditto
	CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS				
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Magistrate of the first class.
162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
163	Taking a gratification for the exercise of personal influence with a public servant.	Simple imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto.	Ditto	Ditto
165A	Punishment for abetment of offences punishable under section 161 or section 165.	Ditto	Ditto	Ditto	Ditto
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto
167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Ditto
168	Public servant unlawfully engaging in trade.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Ditto
169	Public servant unlawfully buying or biding for property	Simple imprisonment for 2 years, or fine, or both, and confication of property, if purchased.	Ditto	Ditto	Ditto
170	Personating a public servant	Imprisonment for 2 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate.

1	2	3	4	5	6
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Cognizable	Bailable	Any Magistrate
	CHAPTER IXA—OFFENCES RELATING TO ELECTONS				
171E	Bribery	Imprisonment for 1 year, or fine, or both, if treating only, fine only.	Non-cognizable	Ditto	Magistrate of the first class.
171F	Undue influence at an election.	Imprisonment for one year, or fine, or both.	Ditto	Ditto	Ditto
	Personation at an election.	Imprisonment for one year, or fine, or both.	Cognizable	Ditto	Ditto
171G	False statement in connection with an election.	Fine	Non-cognizable	Ditto	Ditto
171H	Illegal payments in connection with elections.	Fine of 500 rupees	Ditto	Ditto	Ditto
171I	Failure to keep election accounts.	Ditto	Ditto	Ditto	Ditto
	CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS				
172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple imprision ment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate
	If summons or notice require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
173	Preventing the service or the affixing of any summons of notice, or the removal of it when it has been affixed, or preventing a proclamation.	Simple imprisonment for 1 month or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
	If the order requires personal attendance, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.

1	2	3	4	5	6
	If the document is required to be produced in or delivered to a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable.	Bailable	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Any Magistrate
	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
	If the notice or information is required by an order passed under sub-section (1) of section 356 of this Code.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto
	If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
178	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto
180	Refusing to sign a statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
181	Knowingly stating to a public servant on oath as true that which is false.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Any Magistrate
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto
184	Obstructing sale of property offered for sale by authority of a public servant.	Imprisonment for 1 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
185	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Imprisonment for 1 month, or fine of 200 rupees of both.	Ditto	Ditto	Ditto
186	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto

1	2	3	4	5	6
187	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Non-cognizable	Bailable	Aay Magistrate
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Simple imprisonment or 6 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Cognizable	Ditto	Ditto
	If such disobedience causes danger to human life, health or safety, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
189	Threatening a public servant with injury to him or one in whom he is interested, to induce him to do or forbear to do any official act.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Ditto
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto
	CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE				
193	Giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and fine.	Non-cognizable	Bailable	Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session
	If innocent person be thereby convicted and executed.	Death, or as above.	Ditto	Ditto	Ditto
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for 7 years or upwards.	The same as for the offence.	Ditto	Ditto	Ditto
196	Using in a judicial proceeding evidence known to be false or fabricated.	The same as for giving or fabricating false evidence.	Ditto	According as offence of giving such evidence is bailable or non-bailable.	Court by which offence of giving or fabricating false evidence is triable.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	Court by which offence of giving false evidence is triable.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto

1	2	3	4	5	6
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Imprisonment for 7 years and fine.	According as the offence in relation to which disappearance of evidence is caused is cognizable or non-cognizable.	Bailable	Court of Session
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Non-cognizable	Bailable	Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Imprisonment for 6 months, fine, or both.	Ditto	Ditto	Any Magistrate
203	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Difto	Ditto	Ditto
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Magistrate of the first class
209	False claim in a Court of Justice.	Imprisonment for 2 years and fine.	Ditto	Ditto	Ditto
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto
	If offence charged be punishable with imprisonment for 7 years or upwards.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto
	If offence charged be capital or punishable with imprisonment for life.	Ditto	Ditto	Ditto	Court of Session
212	Harbouring an offender, if the offence be capital.	Imprisonment for 5 years and fine.	Cognizable	Ditto	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto

1	2	3	4	5	6
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
213	Taking gift, etc., to screen an offender from punishment if the offence be capital.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto
214	Offering gift or restoration of property in consideration of screening offender if the offence be capital.	Imprisonment for 7 years and fine.	Non-cognizable	Ditto	Ditto
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto
215	Taking gift to help to recover movable property of which a person has been deprived by an offence without causing apprehension of offender.	Imprisonment for 2 years, or or fine, or both.	Cognizable	Ditto	Ditto
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Ditto	Ditto	Ditto
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto
216A	Harbouring robbers or dacoits.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Imprisonment for 3 years or fine, or both.	Ditto	Ditto	Magistrate of the first class.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order report, verdict, or decision which he knows to be contrary to law.	Imprisonment for 7 years, or fine, or both.	Non-cognizable	Ditto	Ditto

1	2	3	4	5	6
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Imprisonment for 7 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Imprisonment for 7 years, with or without fine.	According as the offence in relation to which such comission has been made is cognizable or non-cognizable.	Ditto	Ditto
	If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable	Ditto	Ditto
	If punishable with imprisonment for less than 10 years.	Imprisonment for 2 years, with or without fine.	Ditto	Ditto	Ditto
222	Intentional omission to apprehend on the part a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Imprisonment for life, or imprisonment for 14 years, with or without fine.	Ditto	Non-bailable	Court of Session
	If under sentence of imprisonment for life or imprisonment for 10 years, or upwards.	Imprisonment for 7 years, with or without fine.	Ditto	Ditto	Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Ditto
223	Escape from confinement negligently suffered by a public servant.	Simple imprisonment for 2 years, or fine, or both.	Non-Cognizable	Ditto	Any Magistrate
224	Resistance or obstruction by a person to his lawful apprehension.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto
225	Resistance or obstruction to the lawful apprehension of any person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto
	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
	If charged with a capital offence.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
	If the person is sentenced to imprisonment for life, or imprisonment for 10 years, of upwards.	Ditto	Ditto	Ditto	Ditto
	If under sentence of death	Imprisonment for for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for:—				
	(*a*) in case of intentional omission or sufferance.	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
	(*b*) in case of negligent omission or sufferance.	Simple imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate

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225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	Imprisonment for 6 months, fine, or both.	Cognizable	Bailable	Any Magistrate
227	Violation of condition of remission of punishment.	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	Ditto	Non-bailable	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed subject to the provisions of Chapter XXVI.
229	Personation of a juror or assessor	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
	CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS				
231	Counterfeiting, or performing any part of the process of counterfeiting coin.	Imprisonment for 7 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
232	Counterfeiting, or performing any part of the process of counterfeiting, Indian coin.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting Indian coin.	Imprisonment for 7 years and fine.	Ditto	Ditto	Court of Session
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
	If Indian coin	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
236	Abetting, in India, the counterfeiting, out of India, of coin.	The punishment provided for abetting the counterfeiting of such coin within India.	Ditto	Ditto	Ditto
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
238	Import or export of counterfeit of Indian coin, knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Imprisonment for 5 years and fine.	Ditto	Ditto	Magistrate of the first class.
240	Same with respect to Indian coin	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
241	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.	Imprisonment for 2 years, or fine, or 10 times the value of the coin counterfeited, or both.	Ditto	Ditto	Any Magistrate.

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242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 3 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
243	Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto	Ditto
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto
246	Fraudulently diminishing the weight or altering the composition of any coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto
247	Fraudulently diminishing the weight or altering the composition of Indian coin.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Imprisonment for 3 year and fine.	Ditto	Ditto	Ditto
249	Altering appearance of Indian coin with intent that it shall pass as a coin of a different description.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
250	Delivery to another of coin possessed with the knowledge that it is altered.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
251	Delivery of Indian coin possessed with the knowledge that it is altered.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
253	Possession of Indian coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Imprisonment for 2 years, or fine, or 10 times times the value of the coin.	Ditto	Ditto	Any Magistrate
255	Counterfeiting a Government stamp	Imprisonment for life, or imprisonment for 10 years and and fine.	Ditto	Ditto	Court of Session
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Bailable	Ditto
260	Using as genuine a Government stamp known to be counterfeit.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto

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261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause a loss to Government.	Imprisonment for 3 years, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
262	Using a Government stamp known to have been before used.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate
263	Erasure of mark denoting that stamps have been used.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
263A	Fictitious stamps.	Fine of 200 rupees.	Ditto	Ditto	Any Magistrate
	CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES				
264	Fraudulent use of false instrument for weighing.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Any Magistrate
265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto
267	Making or selling false weights or measures for fraudulent use.	Ditto	Cognizable	Non-bailable	Ditto
	CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS				
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
271	Knowingly disobeying any quarantine rule	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
273	Selling any food or drink as food and drink, knowing the same to be noxious	Ditto	Ditto	Ditto	Ditto
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto
277	Defiling the water of a public spring or reservoir.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Cognizable	Ditto	Ditto
278	Making atmosphere noxious to health	Fine of 500 rupees.	Non-cognizable	Ditto	Ditto
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Ditto	Ditto
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto

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281	Exhibition of a false light, mark or buoy	Imprisonment for 7 years, or fine, or both.	Cognizable	Bailable	Magistrate of the first class.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Any Magistrate
283	Causing danger, obstruction or injury in any public way or line of navigation.	Fine of 200 rupees	Ditto	Ditto	Ditto
284	Dealing with any poisonous substance so as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
285	Dealing with fire or any combustible matter so as to enganger human life, etc.	Ditto	Ditto	Ditto	Ditto
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto
287	So dealing with any machinery	Ditto	Non-cognizable	Ditto	Ditto
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Ditto	Cognizable	Ditto	Ditto
290	Committing a public nuisance	Fine of 200 rupees	Non-cognizable	Ditto	Ditto
291	Continuance of nuisance after injunction to discontinue.	Simple imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto
292	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years, and with fine of 2,000 rupees, and, in the event of second or subsequent conviction, with imprisonment for five years and with fine of 5,000 rupees.	Ditto	Ditto	Ditto
293	Sale, etc., of obscene objects to young persons.	On first conviction with imprisonment for 3 years, and with fine of 2,000 rupees and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees.	Ditto	Ditto	Ditto
294	Obscene songs	Imprisonment for 3 months, or fine, or both.	Ditto	Ditto	Ditto
294A	Keeping a lottery office	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto

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	Publishing proposals relating to lotteries	Fine of 1,000 rupees.	Non-Cognizable	Bailable	Any Magistrate
	CHAPTER XV—OFFENCES RELATING TO RELIGION				
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	Imprisonment for 2 years, or fine, or both.	Cognizable	Non-bailable	Ditto
295A	Maliciously insulting the religion or the religious beliefs of any class.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
296	Causing a disturbance to an assembly engaged in religious worship	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate
297	Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the fellings or to insult the religion of any person, or offering indignity to a human corpse.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto
298	Uttering any word or making any sound in the hearing or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling.	Ditto	Non-cognizable	Ditto	Ditto
	CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY				
302	Murder	Death, or imprisonment for life, and fine.	Cognizable	Non-bailable	Court of Session
303	Murder by a person under sentence of imprisonment for life.	Death	Ditto	Ditto	Ditto
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto
304A	Causing death by rash or negligent act	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
305	Abetment of suicide committed by child, or insance or delirious person or an idiot, or a person intoxicated.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session
306	Abetting the commission of suicide	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto
	If such act causes hurt to any person	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
	Attempt by life-convict to murder, if hurt is caused.	Death or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto

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308	Attempt to commit culpable homicide	Imprisonment for 3 years, or fine, or both.	Cognizoble	Non-Bailable	Court of Session
	If such act causes hurt to any person	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto
309	Attempt to commit suicide	Simple imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate
311	Being a thug	Imprisonment for life and fine.	Ditto	Non-bailable	Court of Session
312	Causing miscarriage	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
	If the woman be quick with child	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
313	Causing miscarriage without woman's consent.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
314	Death caused by an act done with intent to cause miscarriage	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
	If act done without woman's consent	Imprisonment for life, or as above	Ditto	Ditto	Ditto
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Imprisonment for 10 years, or or fine, or both.	Ditto	Ditto	Ditto
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
318	Concealment of birth by secret disposal of dead body.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
323	Voluntarily causing hurt	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Non-cognizable	Ditto	Any Magistrate
324	Voluntarily causing hurt by dangerous weapons or means.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Ditto
325	Voluntarily causing grievous hurt	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Court of Session
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Imprisonment for life, or imprisonment for 10 years an fine.	Ditto	Ditto	Ditto

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330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 7 years and fine.	Cognizable	Bailable	Magistrate of the first class.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session
332	Voluntarily causing hurt to deter public servant from his duty.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine of 500 rupees or both.	Non-cognizable	Bailable	Any Magistrate
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 4 years, or fine of 2,000 rupees, or both.	Cognizable	Ditto	Magistrate of the first class.
336	Doing any act which endangers human life or the personal safety of others.	Imprisonment for 3 months, or fine of 250 rupees, or both.	Ditto	Ditto	Any Magistrate
337	Causing hurt by an act which endangers human life, etc.	Imprisonment for 6 months, or fine of 500 rupees, or both.	Cognizable	Bailable	Any Magistrate
338	Causing grievous hurt by an act which endangers human life, etc.	Imprisonment for 2 years, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
341	Wrongfully restraining any person	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto
342	Wrongfully confining any person	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
343	Wrongfully confining for three or more days	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
344	Wrongfully confining for 10 or more days	Imprisonment for 3 years and fine.	Ditto	Ditto	Ditto
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Imprisonment for 2 years, in addition to imprisonment under any other section.	Ditto	Ditto	Magistrate of the first class.
346	Wrongful confinement in secret	Ditto	Ditto	Ditto	Ditto
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Imprisonment for 3 years and fine.	Ditto	Ditto	Any Magistrate
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto
352	Assault or use of criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Non-cognizable	Ditto	Ditto
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto

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354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Any Magistrate
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Ditto	Non-cognizable	Ditto	Ditto
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	Ditto	Cognizable	Ditto	Ditto
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto
358	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for one month, or fine of 200 rupees, or both.	Non-cognizable	Ditto	Ditto
363	Kidnapping	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate of the first class.
363 A	Kidnapping or obtaining the custody of a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto
	Maiming a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for life and fine.	Ditto	Ditto	Court of Session
364	Kidnapping or abducting in order to murder.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Cognizable	Ditto	Ditto
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
366A	Procuration of minor girl	Ditto	Ditto	Ditto	Ditto
366B	Importation of girl from foreign country	Ditto	Ditto	Ditto	Ditto
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto
368	Concealing or keeping in confinement a kidnapped person.	Punishment for kidnapping or abduction.	Ditto	Ditto	Court by which the kidnapping or abduction is triable.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
370	Buying or disposing of any person as a slave	Ditto	Non-cognizable	Bailable	Ditto
371	Habitual dealing in slaves.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto
374	Unlawful compulsory labour	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate
376	Rape If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Imprisonment or for 2 years, fine, or both.	Non-cognizable	Ditto	Court of Session

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	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Imprisonment for life, or imprisonment for 10 years and fine.	Non-Cognizable	Bailable	Court of Session
	In any other case	Ditto	Cognizable	Non-bailable	Ditto
377	Unnatural offences	Ditto	Ditto	Ditto	Magistrate of the first class.
	CHAPTER XVII—OFEENCES AGAINST PROPERTY				
379	Theft	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate
380	Theft in a building, tent or vessel	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
381	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto
382	Theft, after preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
383	Extortion	Imprisonment for 3 years, or fine or both.	Ditto	Ditto	Any Magistrate
385	Putting or attempting to put in fear of injury, in order to commit extoration.	Imprisonment for 2 years, or fine or both.	Ditto	Bailable	Ditto
386	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
388	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	Imprisonment for 10 years and fine.	Ditto	Bailable	Ditto
	If the offence threatened be an unnatural offence.	Imprisonment for life.	Ditto	Ditto	Ditto
389	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order to commit extortion.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
	If the offence be an unnatural offence	Imprisonment for life.	Ditto	Ditto	Ditto
392	Robbery	Rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto
	If committed on the highway between sunset and sunrise.	Rigorous imprisonment for 14 years and fine.	Ditto	Ditto	Ditto
393	Attempt to commit robbery.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
395	Dacoity	Ditto	Ditto	Ditto	Court of Session
396	Murder in dacoity	Death, imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto

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397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Rigorous imprisonment for not less than 7 years.	Cognizable	Non-bailable	Court of Session
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto
399	Making preparation to commit dacoity	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
400	Blonging to a gang of persons associated for the purpose of habitually committing dacoity.	Imprisonment for life or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Court of Session
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
	If by clerk or person employed by deceased	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
406	Criminal breach of trust	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Ditto
407	Criminal breach of trust by a carrier, wharfinger, etc.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
411	Dishonestly receiving stolen property, knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session
413	Habitually dealing in stolen property	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate
417	Cheating.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
419	Cheating by personation	Ditto	Cognizable	Ditto	Ditto

1	2	3	4	5	6
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Imprisonment for 7 years and fine.	Cognizable.	Non-bailable	Magistrate the first clas
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrat
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrat
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto
424	Fraudulent removal or concealment of property, of himself or any other person or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto
426	Mischief	Imprisonment for 3 months, or fine, or both.	Ditto	Ditto	Ditto
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	Ditto	Cognizable	Ditto	Ditto
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Imprisonment for 5 years, or fine, or both. ane, or both.	Ditto	Ditto	Magistrate the first class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto
433	Mischief by destroying or moving or rendering less useful a lighthouse or seamark, or by exibiting false lights.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto
434	Mischief by destroying or moving, etc., a landmark fixed by public authority.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Any Magistra
435	Mischief by fire or explosive substance with intent to cause damage to an amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	Imprisonment for 7 years and fine.	Cognizable	Ditto	Magistrate the first cla
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of S sion.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tonnes burdon.	Imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
438	The mischief described in the last section when committed by fine or any explosive substance.	Imprisonment for life, or imprisonment for 10 years, and fine.	Cognizable	Non-bailable	Court of S sion.

1	2	3	4	5	6
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Imprisonment for life, or imprisonment for 7 years and fine.	Non-cognizable	Bailabel	Magistrate of the firts class.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will, etc.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto	Ditto
477A	Falsification of accounts	Imprisonment for 7 years, or fine, orboth.	Ditto	Bailable	Ditto
482	Using a false property mark with intent to deceive or injure any person.	Imprisonment for 1 years, or fine, or both.	Ditto	Ditto	Any Magistrate
483	Counterfeiting a property mark used by another, with intent to cause damage or injury.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto
484	Counterfeiting a property mark used by a pulbic servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Imprisonment for 3 years and fine	Ditto	Ditto	Magistrate of the 1st class.
485	Fraudulently making or having possesion of any die, plate or other instrument for counterfeiting any public or private property mark.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
486	Knowingly selling goods marked with a counterferit property mark.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto
489	Removing, destroying or defacing property mark with intent to cause injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto
489A	Counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	Ditto	Ditto
489C	Possession of forged or counterfeit currency-notes or bank-notes.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Ditto

1	2	3	4	5	6
489D	Making or possessing machinery, instrument or material for forging or counterfeiting currency-notes or bank-notes	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Sessic
489E	Making or using documents resembling currency-notes of bank-notes.	Fine of 100 rupees.	Non-cognizable	Bailable	Any Magistra
	On refusal to disclose the name and address of the printer.	Fine of 200 rupees.	Ditto	Ditto	Ditto
	CHAPTER XIX—CRIMINAL BREACH OF CONTRACTS OF SERVICE				
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily ommitting to do so.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Non-cognizable	Bailable	Any Magistrat
	CHAPTER XX—OFFENCES RELATING TO MARRIAGE				
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Imprisonment for 10 years, and fine.	Non-cognizable	Non-bailable	Magitsrate c the first class
494	Marrying again during the lifetime of a husband or wife.	Imprisonment for 7 years and fine.	Ditto	Bailable	Ditto
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years, and fine.	Ditto	Ditto	Ditto
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Imprisonment for 7 years, and fine.	Ditto	Ditto	Ditto
497	Adultery	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Ditto
498	Enticing or taking away or detaining with a criminal intenet a married woman.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate
	CHAPTER XXI—DEFAMATION				
500	Defamation against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Simple imprisonment for 2 years, fine, or both.	Non-cognizable	Bailable	Court of Session
	Defamation in any other case	Ditto	Ditto	Ditto	Magistrate of the first class.
501	(*a*) Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto	Ditto	Ditto	Court of Session

1	2	3	4	5	6
	(*b*) Printing or engraving matter knowing it to be defamatory, in any other case.	Simple imprisonment for 2 years, or fine, or both.	Non-cognizalbe	Bailable	Magistrate of the fist class.
502	(*a*) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President of the Vice-President or the Governor of a State or Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto	Ditto	Ditto	Court of Session
	(*b*) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter in any other case.	Ditto	Ditto	Ditto	Magistrate of the first class.
	CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE				
504	Insult intended to provoke breach of the peace.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence againts the public peace.	Imprisonment for 3 years, or fine, or both.	Ditto	Non- bailable	Ditto
	False statement, rumour, etc., with intent to create enmity, hatred or ill-will between different classes.	Ditto	Cognizable	Ditto	Ditto
	False statement, rumour, etc., made in place of worship, etc., with intent to create enmity, hatred or ill-will.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto
506	Criminal intimidation	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Ditto
	If threat be to cause death or grievous hurt, etc.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Imprisonment for 2 years, in addition to the punishment under above section.	Ditto	Ditto	Ditto
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Simple imprisonment for 1 year, or fine, or both.	Cognizable	Ditto	Ditto
510	Appearing in a public place, etc., in a state of intoxication and causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Non-cognizable	Ditto	Ditto

1	2	3	4	5	6
	CHAPTER XXIII—ATTEMPTS TO COMMIT OFFENCES.				
551	Attempting to commit offences punishable with imprisonment for life or imprisonment, and in such attempt doing any act towards the commission of the offence.	Imprisonment for life or imprsionment not exceeing half of the longest term provided for the offence, or fine, or both.	According as the offence is cognizable or non-cognizable.	According as the offence attempted by the offender is bailable or not.	The Court by which the offence attempted is triable.

II—CLASSIFICATION OF OFFENCES AGAINST OTHER LAWS

If punishable with death, imprisonment for life, or imprisonment for more than 7 years.	Cognizable	Non-bailable	Court of Session
If punishable with imprisonment for 3 years and upwards but not more than 7 years.	Ditto	Ditto	Magistrate of the first class.
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate

THE SECOND SCHEDULE

(*See* section 476)

FORM No. 1

SUMMONS TO AN ACCUSED PERSON

(*See* section 61)

To (*name of accused*) of (*address*).

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader as the case may be*) before the (*Magistrate*) *of* on the day of Herein fail not.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM No. 2

WARRANT OF ARREST

(*See* section 70)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS (*name of accused*) of (*address*) stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

(*See* section 71)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of rupees with one surety in the sum of rupees (*or* two sureties each in the sum of rupees) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM No. 3

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(*See* section 81)

I, (*name*), of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to fore feit, to Government, the sum of rupees .

Dated, this day of , 19 .

(*Signature*).

I do hereby declare myself surety for the above-named of , that he shall attend before to in the Court of on the day of next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit, to Government, the sum of rupees .

Dated, this day of , 19 .

(*Signature*).

FORM No. 4

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(*See* section 82)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or*, is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant):

Proclamation is hereby made that the said of is required to apperar at (*place*) before this Court (*or* before me) to answer the said complaint on the day of .

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM No. 5

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(*See* sections 82, 87 and 90)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock, to be examined touching the offence complained of.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM No. 6

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(*See* section 83)

To the officer in charge of the police station at

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant); and thereupon a Proclamation has been or is being duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein;

This is to authorise and require you to attach by seizure the movable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this, day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM No. 7

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(*See* section 83)

To (*name and designation of the person or persons who is or are to execute the warrant*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property, other than land paying revenue to Government, in the village (*or* town) of , in the District of , *viz.*, and an order has been made for the attachement thereof;

You are hereby required to attach the said property in the manner specified in clause (*a*), or clause (*c*), or both*, of sub-section (2) of section 83, and to hold the same under attachment pending further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

*Strike out the one which is not applicable, depending on the nature of the property to be attached.

FORM No. 8

ORDER AUTHORISING AN ATTACHMENT BY THE DISTRICT MAGISTRATE OR COLLECTOR

(*See* section 83)

To the District Magistrate/Collector of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of

punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said (*name*) to appear to answer the said charge within days; and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the District of ;

You are hereby authorised and requested to cause the said land to be attached, in the manner specified in clause (*a*), or clause (*c*) or both*, of sub-section (4) of section 83, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated, this day of 19 .

(*Seal of the Court*) (*Signature*)

*Strike out the one which is not desired.

FORM NO. 9

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(*See* section 87)

To (*name and desigantion of the police officer or other person or persons who is or are executive the warrant*).

WHEREAS the complaint has been made before me that (*name and description of accused*) of (*address*) has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint, and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name* of *witness*), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Dated, this day of 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 10

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(*See* section 93)

To (*name and designation of the police officer or other person or persons who is or are to execute the Warrant*).

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected, commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence);

This is to authorise and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*), and, if found to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of 19 .

(*Seal of the Court*).

(*Signature*).

FORM NO.

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(*See* section 94)

To (*name and designation of a police officer above the rank of a constable*).

WHEREAS information has been laid before me, and on due inquiry thereupon had, I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorise and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly*), and to seize and take possession of any property (*or* documents, or stamps *or* seals, *or* coins *or* obscene objects, *as the case may be*) (*add, when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps *or* false seals, *or* counterfeit coins *or* counterfeit currency notes (*as the case may be*), and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM NO. 12

BOND TO KEEP THE PEACE

(*See* sections 106 and 107)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of or until the completion of the inquiry in the matter of now pending in the Court of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term or until the completion of the said inquiry and, in case of my making default therein, I hereby bind myself to forfeit to Government the sum of rupees.

Dated, this day of ,19 .

(*Signature*)

FORM NO. 13

BOND FOR GOOD BEHAVIOUR

(*See* sections 108, 109 and 110)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Government and all the citizens of India for the term of (*state the period*) or until the completion of the inquiry in the matter of now pending in the Court of . I hereby bind myself to be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry; and, in case of my making default therein, I hereby bind myself to forfeit to Government the sum of rupees.

Dated, this day of ,19 .

(*Signature*)

(*Where a bond with sureties is to be executed, add*)

We do hereby declare ourselves sureties for the above-named that he will be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Government the sum of rupees

Dated, the day of ,19.

(*Signature*)

FORM NO. 14

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(*See* section 113)

TO , of

WHEREAS it has been made to appear to me by credible information that (*State the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorised agent) at the office of the Magistrate of on the day of 19 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required add*, and also to give security by the bond of one (*or* two, as *the case may be*) *surety* (*or* sureties) in the sum of rupees (each *if more than one*)], that you will keep the peace for the term of .

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM NO. 15

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(*See* section 122)

To the officer-in-charge of the Jail at

WHEREAS (*name and address*) appeared before me in person (*or* by his authorised agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period of months ; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differes* from that *mentioned in the summons*), and he has failed to comply with the said order;

This is to authorise and required you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 16

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR

(*See* section 122)

To the Officer-in-charge of the Jail at

WHEREAS it has been made to appear to me that (*name and description*) has been concealing his presence within the district of and that there is reason to believe that he is doing so with a view to committing a cognizable offience;

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or house breaker*, etc. *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*), by entering into a bond with one surety (*or* two or more sureties, as *the case may be*), himself for rupees and the said surety (*or* each of the said sureties) for rupees and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorise and require you to receive the said (*name*) into your custody, together with this warrant and him safely to keep in the jail *or* if he is already in prison, be detained therein for the said period of (*term of imprisonment*) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19.

(*Seal of the Court*) (*Signature*)

FORM NO. 17

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(*See* section 122 and 123)

To the Officer in-charge of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of 19 ; and has since duly given security under section of the Code of, Criminal Procedure, 1973.

or

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of 19 ; and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause.

Dated, this day of 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 18

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(*See* section 125)

To the Officer-in-charge of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [*or* his child (*name*) *or* his father *or* mother (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or* himself) and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child *or* father *or* mother) for maintenance the monthly sum of rupees ;and whereas it has been further proved that the said (*name* in wilful disregard of the said order has failed to pay rupees being the amount of the allowance for the month (*or* months) of];

And thereupon an order was made adjudging him to undergo imprisonment in the said Jail for the period of ;

This is to authorise and require you to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 19

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT AND SALE

(*See* section 125)

To (*name and designation of the police officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child or father *or* mother) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorise and require you to attach any movable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such attachment the said sum shall not be paid (*or forthwith*), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 20

ORDER FOR THE REMOVAL OF NUISANCES

(*See* section 133)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc. (*describe the road or public place*), by, etc., (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) till exists;

or

WHEREAS it has been made to appear tome that you are carrying on, as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced):

or

WHEREAS, etc., etc., (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place wher it is now caried on, or to appear, etc:

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.

or

I do hereby direct and require you, etc. etc., (*as the case may be*).

Dated, this day of , 19.

(*Seal of the Court*)

(*Signature*).

FORM NO. 21

MAGISTRATE'S NOTICE AND PEREMPTORY ORDER

(*See* section 141)

To (*name, description and address*).

I HEREBY give you notice that it has been found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Dated, this day of , 19 .

(*Seal of the Court*)

(*Signature*).

FORM NO. 22

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY

(*See* section 142)

To (*name, description and address*).

WHEREAS the inquiry into the conditional order issued by me on the day of ,19 , is pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with such imminent danger or injury of a serious kind to the public as to render necessary immediate measures to prevent such danger or injury, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, 1973, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the inquiry.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 23

MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(*See* section 143)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided by* Form No. 20 *or* Form No. 24, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat or continue, the said nuisance.

Dated, this day of ,19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 24

MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See* section 144)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land you are about to throw or place a portion of the earth and stones dug-up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a procession along the public street, etc., (*as the case may be*) and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land or any part of the said road;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Dated, this day of ,19 .

(*Seal of the Court*). (*Signature*).

FORM NO. 25

MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF A LAND ETC., IN DISPUTE

(*See* section 145)

It appears to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and, residence, residence only if the dispute be between bodies of village*) concerning certain (*state concisely the subject of dispute*), situate within my local jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal

right of possession, that the claim of actual possession by the said (*name or names or description*) is true; I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime.

Dated, this day of , 19 .

(*Seal of the Court*). (*Signature*).

FORM NO. 26

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND ETC.

(*See* section 146)

To the officer-in-charge of the police station at
(*or*, To the Collector of).

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon only called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) (*or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid);

This is to authorise and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 27

MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER

(*See* section 147)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within my local jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appears to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at a particular season, say*, "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*) or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 28

BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER

(*See* section 169)

I, (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at ,in the Court of ,on the day of next (*or* on such day as I may here after be required to attend) to answer further to the said charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees

Dated, this day of ,19 .

(*Signature*).

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the above said (*name*) that he shall attend at in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Government the sum of rupees

Dated, this day of ,19 .

(*Signature*).

FORM NO. 29

BOND TO PROSECUTE OR GIVE EVIDENCE

(*See* section 170)

I, (*name*), of (*place*) , do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one A. B., and, in case of making default herein, I bind myself to forfeit to Government the sum of rupees .

Dated, this day of ,19 .

(*Signature*).

FORM NO. 30

SPECIAL SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

(*See* section 206)

To
(Name of the accused)
of (address)

WHEREAS your attendance is necessary to answer a

charge of a petty offence (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader) before (Magistrate) of on the day of 19 , or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum of rupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein fail not.

Dated, this day of ,19 .

(*Seal of the Court*). (*Signature*).

(*Note.*—The amount of fine specified in this summons shall not exceed one hundred rupees).

FORM NO. 31

NOTICE OF COMMITMENT BY MAGISTRATE TO PUBLIC PROSECUTOR

(*See* section 209)

The Magistrate of hereby gives notice that he has committed one for trial at the next Session; and the Magistrate hereby instructs the Public Prosecutor to conduct the prosecution of the said case.

The charge against the accused is that, etc. (*state the offence as in the charge*).

Dated. this day of 19 .

(*Seal of the Court*). (*Signature*).

FORM NO. 32

CHARGES

(*See* sections 211, 212 and 213)

I. CHARGES WITH ONE HEAD

(1) (*a*) I, (*name and office of Magistrate, etc*), hereby charge you (*name of accused persons*) as follows:—

(*b*) *On Section* 121.—That you, on or about the day of , at , waged war against the Government of India and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of this Court.

(*c*) And I hereby direct that you be tried by this Court on the said charge.

(*Signature and Seal of the Magistrate*).

[*To be substituted for* (*b*)].—

(2) *On Section* 124.—That you, on or about the day of , at , with the intention of inducing the President of India [*or, as the case may be*, the Governor of (*name of state*)] to refrain from exercising a lawful power as such President (*or, as the case may be*, the Governor), assaulted President (*or , as the case may be*, the Governor), and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of this Court.

(3) *On Section* 161.—That you, being a public servant in the Department, directly accepted from (*state the name*) for another party (*state the name*) gratification other than legal remuneration, as a motive for fore bearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of this Court.

(4) *On Section* 166.—That you, on or about the day of ,at ,did (*or* omitted to do, as *the case may be*) ,such conduct being contrary to the provisions of Act ,section ,and known by you to be prejudicial to ,and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of this Court.

(5) *On Section* 193.—That you, on or about the day of ,at ,in the course of the trial of before ,stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of this Court.

(6) *On Section* 304.—That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and the reby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of this Court.

(7) *On Section* 306.—That you, on or about the day of ,at ,abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of this Court.

(8) *On Section* 325.—That you, on or about the day of ,at ,voluntarily caused greivous hurt to ,and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of this Court

(9) *On Section* 392.—That you, on or about the day of at, robbed (*state the name*), and there by committed offence punishable under section 392 of the Indian Penal Code, and within the cogniza- nce of this Court.

(10) *On Section* 395.—That you, on or about the day of , ,at ,committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of this Court.

II. CHARGES WITH TWO OR MORE HEADS

(1) (*a*) I, (*name and office of Magistrate, etc*),hereby charge you (*name of accused person*) as follows:—

(*b*) *On Section* 241.—*First*—That you, on or about the day of ,at , knowing a coin to be counterfeit, delivered the same to another person, by name, A. B, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the day of ,at ,knowing a coin to be counterfeit attempted to induce another person, by name, A.B., to receive

it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said Court on the said charge.

(*Signature and seal of the Magistrate*).

[*To be substituted for* (*b*)]:—

(2) *On Sections* 302 and 304).—*First*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly—That you, on or about the day of , at , by causing the death of ,committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3) *On Sections* 379 and 382.—*First*—That you, on or about the day of ,at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly—That you, on or about the day of ,at ,committed theft, having made preparation for causing death to a person in order to the committing of such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code and within the cognizance of the Court of Session.

Thirdly—That you, on or about the day of at ,committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code and within the cognizance of the Court of Session.

Fourthly—That you, on or about the day of ,at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4) *Alternative charge on section* 193.—That you, on or about the day of ,at ,in the course of the inquiry into ,before , stated in evidence that " ", and that you, on or about the day of ,at ,in the course of the trial of ,before ,stated in the evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

(*In case tried by Magistrate substitute* "within my cognizance", for "within the cognizance of the Court of Session").

III. CHARGES FOR THEFT AFTER PREVIOUS CONVICTION

I, (*Name and office of Magistrate, etc.*), hereby charge you (*name of accused person*) as follows:—

That you, on or about the day of ,at ,committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session (*or* Magistrate, *as the case may be*).

And you, the said (*name of accused*), stand further charged that you, before the committing of the said offence, that is to say, on the day of, head been convicted by the (*state Court by which conviction was had*) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code,

And I hereby direct that you be tried, etc.

FORM NO. 33

SUMMONS TO WITNESS

(*See* sections 61 and 244)

To of

WHEREAS complaint has been made before me that (*name of the accused*) *of* (*address*) has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby waraned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated, this day of ,19.

(*Seal of the Court*) (*Signature*).

FORM NO. 34

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE

(*See* sections 248 and 255)

To the Officer in charge of the Jail at

WHEREAS on the day of (*name of prisoner*), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*), under section (*or* sections) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorise and require you to receive the aid (Prisoner's *name*) into your custody in the said Jail, together with this warrant, and thereby carry

the aforesaid sentence into execution according to law.

Dated, this day of ,19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 35

WARRANT OF IMPRISONMENT ON FAILURE TO PAY COMPENSATION

(*See* section 250)

To the Officer in charge of the Jail at

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed on the ground that there was no reasonable ground for making the accusation against the said (*name*) and the order of dismissal awards payment by the said (*name of complaint*) of the sum of rupees as compensation: and whereas the said sum has not been paid and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorise and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the reciept thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 36

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR ANSWERING TO CHARGE OF OFFENCE

(*See* section 267)

To

The Officer in charge of the Jail at

WHEREAS the attendance of (*name of prisoner*) at present confined/detained in the above-mentioned prison, is required in this Court to answer to a charge of (*state shortly the offence charged*) or for the purpose of a proceeding (*state shortly the particulars of the proceeding*):

You are hereby required to produce the said under safe and sure conduct before this Court on the day of ,19 , by A.M. there to answer to the said charge, or for the purpose of the said proceeding, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof.

Dated, this day of ,19 .

(*Seal of the Court*) (*Signature*).

Countersigned.

(*Seal*)

(*Signature*).

FORM NO. 37

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR GIVING EVIDENCE

(*See* section 267)

To

The Officer in charge of the Jail at

WHEREAS complaint has been made before this Court that (*name of the accused*) of has committed the offence of (*state offence concisely with time and place*) and it appears that (*name of prisoner*) at present confined/detained in the above-mentioned prison, is likely to give material evidence for the prosecution/defence;

You are hereby required to produce the said under safe and sure conduct before this Court at on the day of ,19 ,by A.M. there to give evidence in the matter now pending before this Court, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof .

Dated, this day of ,19 .

(*Signature*).

(*Seal of the Court*)

Countersigned

(*Seal*).

(*Signature*).

FORM NO. 38

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED

(*See* section 345)

To the Officer in charge of the Jail at

WHEREAS at a Court held before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of the offender*) has been adjudged by the Court to pay a fine of rupees, or in default to suffer simple imprisonment for the period of (*state the number of months or days*);

This is to authorise and require you to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the said fine, be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of ,19 .

(*Seal of the Court*)

(*Signature*).

FORM NO. 39

MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER OR TO PRODUCE DOCUMENT

(*See* section 349)

To (*name and designation of officer of Court*)

WHEREAS (*name and description*), *being summoned* (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded or having been called upon the produce any document has refused to produce such document, without alleging any just excuse for such refusal, and for his refusal has been ordered to be detained in custody for (*term of detention adjudged*);

This is to authorise and require you to take the said (*name*) into custody, and him safely to keep in your custody for the period of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, or to produce the document called for from him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 40

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(*See* section 366)

To the Officer in charge of the Jail at

WHEREAS at the Session held before me on the day of , 19 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 19 at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this court, carrying into effect the order of the said Court.

Dated, this day of ,19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 41

WARRANT AFTER A COMMUTATION OF A SENTENCE

(*See* section 386)

To the Officer in charge of the Jail at

WHEREAS at a Session held on the day of 19 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 19 at the said Session was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of imprisonment for life;

This is to authorise and require you safely to keep the said (*prisoner's name*) in your custody in the said Jail as by law is required, until he shall be belivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life under the said order,

or

if the *mitigated sentence is one of imprisonment, say, after the words* "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law".

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 42

WARRANT OF EXECUTION OF A SENTENCE OF DEATH

(*See* section 414)

To the Officer in charge of the Jail at

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 19 at the Session held before me on the day of , 19 has been by a warrant of the Court, dated the day of , committed to your custody under sentence of death ; and whereas the order of the High Court at confirming the said sentence has ben received by this Court ;

This is to authorise and require you to carry the said sentence in to execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*),

FORM NO. 43

WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

(*See* section 421)

To (*name and designation of the police officer or other person or persons who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of , 19 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorise and require you to attach any movable property belonging to the said (*name*), which may be found within the district of and, if within (*state the number of days or hours allowed*) next after such attachment the said sum shall not be paid (*or* forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of 19 .

(*Seal of the Court*) (*Signature*).

FORM No. 44

WARRANT FOR RECOVERY OF FINE

(*See* section 421)

To the Collector of the district of

WHEREAS (*name, and address and description of the offender*) was on the day of 19 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and

WHEREAS the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

Your are hereby authorised and requested to realise the amount of the said fine as arrears of land revenue from the movable or immovable property, or both, of the said (*name*) and to certify without delay what you may have done in pursuance of this order.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

FORM NO. 45

BOND AND BAIL-BOND FOR ATTENDANCE BEFORE OFFICER IN CHARGE OF POLICE STATION OR COURT

[*See* sections 436, 437, 438 (3) and 441]

I, (*name*), of (*place*), having been arrested or detained without warrant by the Officer in charge of police station (*or* having been brought before the Court of), charged with the offence of , and required to give security for my attendance before such Officer or Court on condition that I shall attend such Officer or Court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to for feit to Government the sum of rupees

Dated, this day of , 19 .

(*Signature*).

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the above said (*name*) that he shall attend the Officer in charge of police station or the Court of on every day on which any investigation into the charge is made or any trial on such charge is held, that he shall be, and appear, before such Officer or Court for the purpose of such investigation or to answer the charge against him (as the case may be), and, in case of his making default herein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Government the sum of rupees.

Dated, this day of 19 .

(*Signature*).

FORM NO. 46

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(*See* section 442)

To the Officer in charge of the Jail at (*or other officer in whose custody the person is*)

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 441 of the Code of Criminal Procedure;

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Dated, this day of , 19 .

(*Seal of the Court*) (*Signature*).

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

ELECTION DEPARTMENT

NOTIFICATION

Simla-2, the 11th January, 1974

No. 3-36/73-Elec.—The Election Commission of India's Notification No. 82/HP/9/72, dated the 14th December, 1973, containing the Judgment of the High Court of Himachal Pradesh in Election Petition No. 9 of 1972, is hereby published for general information.

By order,
L. TOCHHAWNG,
Chief Electoral Officer, Himachal Pradesh.

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD,
NEW DELHI-1.
Dated the 14th December, 1973.

NOTIFICATION

No. 82/HP/9/72.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the judgment, dated the 10th August, 1973, of the High Court of Himachal Pradesh in Election Petition No. 9 of 1972.

IN THE HIGH COURT OF HIMACHAL PRADESH SIMLA-1

Election Petition No. 9/72/-
Date of Decision 10*th August*, 1973.

Satya Dev Bushahri son of Shri Nika Ram, Vidya Bhawan, Rohru, Tehsil Rohru, District Simla (Himachal Pradesh) through M/s Chhabil Dass and D. P. Sud, Advo.

Versus

Shri Amrit Singh Rathore son of Shri Gian Singh, resident of village Badshal, P. O. Tikkar, Tehsil Rohru, District Simla, Himachal Pradesh, through M/s S. Malhotra & H. K. Bhardwaj, Advocates.

For approval and signature.

The Hon'ble Mr. Justice D. B. Lal.
The Hon'ble Mr. Justice

1. Whether approved for reporting?
2. Whether there are remarks about the quality of the judgment of the Court or Officer?

Coram:—

D. B. Lal, J.

Shri Satya Dev Bushahri has been declared defeated in the Assembly Election of 1972 from Rohru Constituency. His result was declared on 12th March, 1972 and he has presented this election petition under section 80 of the Representation of the People Act, 1951, (hereinafter to be referred to as the Act of 1951), with a prayer that the election of the winning candidate Shri Amrit Singh Rathore be declared void and the respondent be further declared to have committed corrupt practices within the meaning of section 123 of the Act of 1951 and hence be debarred from contesting election for a period of six years. The facts giving rise to the petition may now be stated.

According to the notification issued by the Election Commission on 1st February, 1972 the constituency was called upon to elect a member. The nomination papers were filed between 1st and 8th February, 1972. The scrutiny of such nomination papers was held on 9th February, 1972. The last date of withdrawal was 11th February, 1972. The date of poll was 5th March, 1972. Although six candidates including the respondent had filed nomination papers but only three, namely, the respondent Shri Amrit Singh Rathore, Shri Satya Dev Bushahri Petitioner and Shri Balbir Singh Dhawan remained in the field and the contest took place amongst them. The result was announced on 12th March, 1972. Shri Amrit Singh Rathore respondent being the congress candidate scored 4,588 votes while Shri Satya Dev Bushahri petitioner scored 4,036 votes. In this manner Shri Amrit Singh Rathore was declared elected.

According to the petitioner two significant incidents took place before the date of poll which was 5th March, 1972. One of the incidents was the visit of Dr. Y. S. Parmar, Chief Minister of Himachal Pradesh and Smt. Satya Wati Dang, General Secretary of H. P. C. C. to Chadgaon and Rohru on the 29th February, 1972 in connection with the election meetings. The petitioner contends that the respondent had approached the Chief Minister as well as Smt. Dang to arrange this tour. They had come to convass for him. The respondent arranged for the meetings and also tea which took place at Chadgaon and lunch which was held at Rohru. In this manner Dr. Y. S. Parmar as well as Smt. Dang were the agents of the respondent within the meaning of section 123 of the Act of 1951. In the two meetings the Chief Minister stated that in case the people would not vote for the respondent who was the congress candidate, development work would be stopped in the constituency. The Chief Minister further stated that finances of the State were in his hands and he would facilitate help to Harijans and would also give loans and other facilities to the people of the constituency but only after they consented to vote for the congress candidate. According to the petitioner, Smt. Dang stated in the two meetings that the congress candidate should be supported because only then the people would be permitted to get audience with the Ministers and other higher ups in the Government to ventilate their grievances. Both at Chadgaon and Rohru, meetings of election workers took place and in those meetings also it was stated both by the Chief Minister and Smt. Dang that whatever they had stated in their public speeches should be propagated in the villages by the workers. Although in the petition it is not so mentioned, yet it is stated by the witness, that Smt. Dang specifically asked the congress workers to make a propaganda in the villages to the effect that signatures and thumb-impressions, which are required to be take under the rules before ballot papers are issued, would enable the ruling party to know the identity of the voters and those who had not voted for the congress candidate would accordingly be dealt with. According to the petitioner whatever speeches the two public leaders had given and whatever they had stated in the workers meetings, was given due publicity by the election workers of the respondent and in this manner acts of bribery and undue influence were committed within the meaning of section 123 of the Act of 1951.

The second incident of importance was the sudden heavy snow fall on the hight preceding to the date of poll. As a result to that snow fall, temporary structures of polling stations fell down. The polling stations were accordingly shifted either in private houses or in temples, at a few places besides that, the improvised polling stations were so costructed that very little light was available for the marking of ballot papers. Without proper notice the voters could not find the new polling stations. The secrecy of vote was not observed. The Harijan voters did not enter the temple precinets and hence they did not exercise their right of vote. The workers of the respondents also openly theartended the voters within the prohibited area of polling stations. In this manner rules and regulations were not observed and constitutional provisions were disregarded. All this was done at the instance of the respondent and hence was a corrupt practice. The result of the election in so far as it concerned the respondent was materially effected in his fa our.

The petitioner submitted that the polling stations were shifted in houses owned by a private persons at Kothi No. 3/1 and Kotara No. 3/30. At the former, it was shifted in the house of Shri Jhina Singh who was active supporter of the respondent. At the latter, it was shifted in the house of Shri Raghbir Dass Zaildar which was also owned by Gian Chand who was actively convassing for the respondent. At Chopari No. 3/6, Nandla 3/44 and Jhanjwani No. 3/57 the polling stations were shifted in temples which affected the votes of Harijans. In the fact for Jhanjwani polling station it was pleaded that the polling station was notified as Government

School which never existed and hence the polling station was opened in the temple of Devta Jablu. At Chopari it was shifted in the temple of Devta Godaru.

The petitioner's grievance relates to polling stations Kothari No. 3/1, Khalai No. 3/10, Chopari No. 3/6, Kotara No. 3/30, Nandla No. 3/44, Gajyani No. 3/72 Tangnu No. 3/70 and Rouhal No. 3/53. It is stated that at these stations the arrangements of ballot were defective in as much as no light was available and the person voting had to bring the ballot paper wither outside or at a place to get light for making and the result was that no secrecy was maintained and the workers of the respondent used to threaten the voters. At Khhalai P. S. Durga Singh polling agent threatened Pania in this manner and the vote was cast in favour of the respondent. At Kotara P. S. Sohbal Ram openly convassed and quoted Rohru Speech of Chief Minister and solicited vote. At Gajyani P. S. the polling station was shifted to a dark room where no arrangement for light existed. The women voters refused to enter the polling booth for voting. At Rohal P. S. the voters were terrorised by Gopi Chand President of Gram Panchayat who was working for the respondent.

As regards the propaganda that was made by the workers of the respondent with reference to the two speeches given by the Chief Minister and Smt. Dang, the petitioner submitted that Bhagat Ram and Pyare Lal made the propaganda at villages Kothari, Khalagar and Nalaban. Durga Singh made that propaganda at Khalai, Shiam Singh at Hanstari and villages of Nawar valley Bishan Dass and Agar Chand at Chopari, Gian Chand and Sobhal Ram at Kotara, Khewara, Karalas and Bhamnahla, Chain Ram Negi and Tulsi Ram at Nandla, Gopi Chand at Rohal and in villages and to person of Jhina valley namely, Hari Singh, Shiam Singh, Mangal Dass and Shikru, Jita Singh or Lila Singh at Gajyani, Rattan Das at Kaloti and Joginder Singh at Bachunch. All these person not only brought pressure upon the people by saying that in case they would vote for congress candidate development works would be done in the constituency, loans would be given, Harijans would be looked after and they could go to the Ministers and others to ventilate their grievances, but also threatened them by saying that the people of the constituency would be deprived of these benefits in case they would not vote for the congress candidate. This offer or promise or threat was given by these persons with the consent and connivance of the respondent. At any rate they were agents and even if the consent of the candidate was not there, they influenced the voters and materially affected the result of the election in favour of the respondent.

Thus according to the petitioner, the respondent commictted corrupt practice and other irregularities under sections 100(1) (*b*) and (*d*) (*ii*) of the Act of 1951. As such the election of the respondent No. 1 is to be declared void. Since the respondent has committed corrupt practice, according to the petitioner, he should also be debarred from contesting election for a period of six years.

The respondent Shri Amrit Singh Rathore contested the petition on a variety of grounds. He took the preliminary objection under section 83(*b*) and (*c*) by alleging that full particulars of corrupt practices were not given and the petition was also not verified in the manner laid down in Civil Procedure Code. He also took the plea that the petition was barred by time and that the security was not deposited in accordance with the rules. The other pleas of the respondent are of absolute denial of what the petitioner has stated. It is submitted that Balbir Singh Dhawan was a necessary party and that the petition was defective on the ground. It was denied that any corrupt practice was committed by the respondent. At any rate those person against whom corrupt practices were imputed were not the agents of the respondent. Firstly they did not commit any act of corrupt practice and secondly if they at all could be stated to have committed any such act, there was neither consent nor connivance of the respondent. Above all according to the respondent, his result was not materially affected in any manner by the imputed conduct or propaganda of these persons. The respondents contention is that all the rules and regulations were duly observed in the lay out of the polling stations. There was no shifting, as alleged, in private houses or inside the temples. The Harijan voters turned up in ample numbers. There was no restriction for them to enter any polling station. There was sufficient light and secrecy of voting was maintained. None, of the persons was permitted to canvass within the prohibited area of the polling station. No threats were given to the voters of the petitioner. According to the respondent, the pleas are all after thoughts and the petitioner has concocted the allegation as he has suffered he defeat in the election.

Regarding the speeches given by Dr. Y. S. Parmar and Smt. Dang, the respondent admitted that such speeches were given but the contents were different. The two public leaders had stated that the congress rule was beneficial to the State. Much development work was done in the congress regime. The voters were free to choose their candidate. They no doubt appealed that the respondent should be voted from the constituency. It was never stated by Dr. Y. S. Parmar that no development work would be done or that loans would not be given or Harijans would not be supported in case the congress candidate was not voted. Similarly Smt. Dang did not state that the people of the constituency would only get audiance with the Ministers if the congress candidate was returned. The petitioner had neither arranged the meetings nor the tea at Chandgaon nor lunch at Rohru. All this was done by the local congress committee. In fact the respondent did not arrange for the meetings at all.

The polling stations were notified under the rules. The petitioner filed no objections. He cannot be heared now to say that any particular station was located at a wrong place. The respondent denied the allegations of the petitioner pertaining to particular polling station. Similarly he denied the allegation of the petitioner pertaining to individual person who are alleged to have made propagandas of those speeches either at the polling stations or in the villages. It was denied that any propaganda was made with reference to thumb-impressions or signatures which were to be obtained at the time to ballot papers were issued.

In respect of Kothari P. S. it was denied that the polling station was shifted in the house of Jhina Singh or that the latter was supporting the respondent. In respect of Ketra P. S. it was denied that the station was shifted in the house of Raghbir Dass or Gian Chand. No doubt Gian Chand was polling agent of the respondent but Raghbir Dass and his son Prithvi Raj were the supporters of the potitioner. It was denied that Gian Chand and Sobhal Ram threatened the voters or made any propaganda with reference to the two speeches given at Chandgaon and Rohru. In respect of Gajyani P. S. it was denied that there was no sufficient light or that

the women voters did not enter to cast votes. In fact there was sufficient lighting arrangements. Similarly in respect of other polling stations, the respondent denied shifting of the polling station to a temple and further denied that lighting arrangements was inadequate or secrecy was not maintained.

It was, therefore, prayed that the election petition need be dismissed with costs.

The following issues were framed for the decision of the petition:—

Issue No. 1. Whether the petition cannot be considered to be duly signed and verified in the manner laid down in the C. P. Code, as provided in section 83(1) (*c*) of the Representation of the People Act, 1951, because the copy of the petition supplied to the respondent(s) does not show the paragraph relating to verification. If so, what is its effect?

Issue No. 2. Whether the affidavit filed in support of the alleged corrupt practices is in the prescribed form in support of the allegations of such corrupt practices. If not, its effect?

Issue No. 3. Whether the petition has set forth full particulars as prescribed under section 83 (1) (*b*) of the Representation of the People Act, 1951, if not, its effect?

Issue No. 4. Whether the petition is time barred?

Issue No. 5. Whether the security for costs prescribed under section 117 of the Representation of the People Act, 1951, has not been deposited in accordance with the rules prescribed therefore. If so, its effect?

Issue No. 6. Whether there has been any non-compliance with the provisions of the Constitution and of the Representation of the People Act, 1951, or of any rules or orders made thereunder, as alleged by the petitioner in paragraph 2 (*a*) of the petition. If so, has the result of the election in so far as it concerns the respondent been materially affected? If so, can his election be declared void?

Issue No. 7. Whether all or any alleged acts of paragraph 3 (*i*) to (*vii*) and (*ix*) and (*x*) of the petition have been committed by the respondent or his election agent. If so, what are the consequences and can the election of the respondent be declared void?

Issue No. 8. To what relief, if any, is the petitioner entitled?

Issue No. 1 *to* 5. These issues have been decided at the preliminary stage.

Issue No. 7. The allegations of the petitioner, regarding the speeches delivered by Dr. Y. S. Parmar, Chief Minister and Smt. Dang on the 29th February, 1972 at Chandgaon and Rohru followed by whatever these two public leaders stated in workres meeting on that day, coupled with the subsequent propaganda made by the workers of the respondent, essentially refer to the corrupt practices of bribery and undue influence set down in section 123(1) and (*ii*) of the Act of 1951. If the allegations made by the petitioner are correct and the two public leaders, made offer or promise before the electors of the constituency that they would give finances for development work only if the congress candidate was voted, or that they given government loans to the people or would help the Harijans or would enable them to get easy audiance with the Ministers and other higher ups, the corrupt practices of bribery is certainly established. Similarly if the people residing in the constituency were made to understand that no development work would be done and no loans would be granted unless the congress candidate was voted or that the rule regarding signatures and thumb-impressions would reveal the secrecy of the vote and the defaulter would be punished, the corrupt practice of undue influence is made out. The petitioner was, therefore, required to prove as to what was actually stated by the Chief Minister and Smt. Dang in these speeches. He has further to prove if these two leaders at all addressed workers meetings and if so what did they state in such meetings. In this connection, it has been contended by the petitioner that several persons who were election workers of the respondent also made that propaganda on subsequent dates. They also made an offer or promise of like nature to the voters. They even threatened them by saying that would come to know as to who had voted against the congress candidate and he would be dealt with. The petitioner has obviously to prove all these facts before he can succeed in the plea of corrupt practice of bribery and undue influence. It is abundantly clear that the charge of corrupt practice is a criminal charge and the case has to be decided on cogent and dependable evidence. Mere preponderance of probability of facts or circumstances will not help the petitioner. There is a string of authorities in favour of this view. *In Mahant Shreo Nath* vs. *Choudhry Ranbir Singh* (1970 Vol. II) unreported judgments Supreme Court H (762) their lordships were considering charge of corrupt practice in election petition. As observed in that case, a charge of corrupt practice is a grave charge as the proof of it results in disqualification from taking part in election for 5 years or more. The charge is in its very nature must be established by clear and cogent evidence, by those who seek to prove it. The court does not hold such a charge proved merely on preponderance of probability. The court required that the conduct attributed to the offender is proved by evidence which establishes it beyond reasonable doubt. Similar view was expressed in *Lalroukung* v. *Maokhoi Lal Thangjom* 1969 (Vol. I) the unreported judgments Supreme Court (12). While dealing with the charge of corrupt practice the learned Judges held that it is always proper to bear in mind the rule that a charge of corrupt practice is in the nature of a criminal charge as its consequence is not only to render the election of the returned candidate void but in some cases to impose upon him a disqualification. Therefore the evidence in support of corrupt practice is required to be cogent and definite and in order to succeed, the petitioner has to establish definitely to the satisfaction of the Court that the charge levelled against the respondent is proved beyond doubt. Yet another case of Supreme Court may be referred in this connection. In Devi Parsad v. Malluram Singhania and others [1969 (Vol. III) Supreme Court cases 595], it was emphasised that a charge of corrupt practices is of a quasi criminal nature and it is for the petitioner to prove beyond doubt all the necessary facts which would establish the commission of the corrupt practice that have been alleged in the election petition

It is, therefore, beyond question that the charge of corrupt practices levelled by the petitioner would be of the nature of quasi criminal charge and cogent and definite evidence would he needed to prove is against the respondent.

As to burden of proof, there will be no doubt that it rests upon the petitioner. If authority is need for this reliances can be placed on Jagdev Singh Sidhanti *v.* Paratap Singh Daulta and other (A.I.R. 1965 Supreme Court 183). In the trial of an election petition, the burden or providing that the election of a successful candidate is liable to be set aside on the plea that he has committed directly or though his agent corrupt practice lies heavily upon the petitioner and unless he proves it by direct responsibility of the respondent or though his agents, he cannot succeed in proving the charge. Besides this, the evidence to be adduced has got to be reliable and beyond any reasonable doubt. Therefore, the supreme Court has laid down the standard of proof almost similar to a criminal trial.

As to the speech delivered by the Chief Minister, cases have arisen before the Election Tribunals and these have laid down principles which govern the effect of such speeches upon the elections and as to the responsibility which the candidate owes to such speeches. The doctrine of agency contained in election law stands on a different footing. It is not necessarily confined to agency in civil or criminal law. The retification of the act of agent may bind the principle under the Civil Law. It may not in English Law, so long it is held that the agent had acted without the consent of the candidate or that his act was not connected with the election of the candidate. What the explanation to sub-section (*i*) of section 123 provides is, that the agent must have acted in connection with election and with the consent of the candidate. Unless both things are satisfied the person acting would not be "agent" so as to make the candidate responsible for his action. This question assumes some importance when it is considered with reference to the speeches given by Dr. Parmar, the Chief Minister and Smt. Dang, General Secretary of the Congress. It has to be understood that these two leaders had to perform their public duties apart from supporting, in particular, the candidature of the respondent. They were party leaders and were naturally interested in the success of their party in the election. In Jayalakshmi Devamma *v.* Janardhan Reddi [1959 ELR (Vol. 17) page 302], a Division Bench of Andhra Pradesh High Court while considering the plea of corrupt practice as a result to a speech given by a Chief Minister or by some other Minister, observed, that merely because the Chief Minister or the other Minister of the State addressed a public meeting and canvassed to support their candidate, it would not be held that they were agents of the candidate and the latter would be guilty of corrupt practice. However, if a Minister or a public leader refers to candidate in particular and commits acts of corrupt practice as defined in section 123 with the consent of the candidate his speech would be a relevant fact to prove such corrupt practice against the candidate A general speech given by the Chief Minister, laying out the policy of the congress party and narrating the achievements of his party in the development of the constituency would not be an act of corrupt practice. It must be remembered that in our country there is a responsible system of government both at the centre and in the States. As pointed out by Berriedale Keith in his well known treaties, Constitutional Law of the the British Dominions:

> "The essential basis of the working of a responsible Government is the existence of the party system. The party serves to secure agreement on a course of action the selection of candidates for the election and the education of the electorate is the purpose of the party for which purpose public meetings distribution of literature and canvassing are regularly employed and the persuation of voters to casie their suffer-ages at the election for the candidates selected to the party organisation".

Therefore, their is nothing basically wrong if the Chief Minister or Smt. Dang gave speeches in support of their party candidate. This is not the say that they were entitled to use their official possition in any manner for the furtherence of the prospectus of the respondent so that they could commit corrupt practice for which the respondent could be held responsible. A minister or political leader merely by reason of his office does not suffer from diability in this behalf, equally, by virtue of his or her office he or she does not enjoy any privilege. The Chief Minister and Smt. Dang had some right and the obligation as any other citizen possessed in regard to the election. Nay they had greater responsibility being party leader. In Krishanji Bhimrao Antorlikar V. Shankar Shanta Ram More and other (1953 Vol. 7) Election Law Reports 100 certain leaflets were published by the Secretary Election Propaganda Committee of a party and it was held by the tribunal that this act cannot be deemed to be a corrupt practice unless there is evidence that he did that act with the consent of the candidate or the act itself amounted to a corrupt practice in any manner. In the instant case it has been established that the Chief Minister and the General Secretary of the Congress were going out on tour throughout the State and Rohru constituency was not an exception. It was a general election compaign of the Congress Party. The mass appeal was to be made and votes were to be educated. It was with this object that the Chief Minister organised his tour and gave speeches at Chadgaon and Rohru.

It is then very essential to know as to what these two public leaders stated in their speeches. For this the petitioner gave his own statement and produced 4 witnesses, of whom Kahan Chand PW-19, Sohan Lal PW-22 and Munishi Ram PW-24 stated for the Rohru meeting while Sohan Lal and Jai Lal PW 23 stated for Chadgaon meeting. Out of these three witnesses were actively interested against the respondent. PW 22 Sohan Lal and PW 24 Munishi Ram were not only the polling agents for the petitioner but were his active workers. PW 23 Jai Lal was the election worker of Shri Dhawan the Jan Sangh candidate. As such he was also interested to defeat the respondent. Therefore, the statements of these three witnesses cannot be absolutely relied upon. The single withness PW 19 Kahan Chand no doubt supported the petitioner but would be of no avail as against over whelming evidence in this regard produced by the respondent.

The petitioner was of course interested to depose in his favour. According to him, he was present in the two meetings and heard all that the two leaders had stated. According to the petitioner at Chadgaon, the people turned their attention towards him. Upon that Dr. Parmar became angry and, stated saying that he possessed the Keys of the treasury and that the no development works would be done and no loans would be given to the people, in case the congress candidate was not voted. It is difficult to believe that responsible persons like

Dr. Parmar and Smt. Dang would have stated all this in the two meetings.

In fact there was no occasion for them to get infuriated because of the presence of Shri Bushahri. According to the petitioner Dr. Parmar also stated that whatever he had done for the Pradesh was before the public. The respondent admits that the Chief Minister and Smt. Dang no doubt gave speeches but they narrated only the achievements of the congress party and wanted that the party should be retuned to power and the respondent being their candidate should be voted. The petitioner is an old rival of Dr. Parmar and according to him, he is pitched up in politics against him from 1942. Although the petitioner has fought serveral elections yet he was not successful in any of them. With this political animosity between the two it was not difficult for the petitioner to have summoned a few of his supporters who gave a twist to the facts and exaggerated and even concocted versions of the two speeches. As such if would be difficult to believe the petitioner and his witnesses in the absence of sufficient corrobolative evidence. As regards the respondent, besides giving his own statement, he produced five witnesses who were the Chairman or other active workers of the congress party. As such these persons were more appropriately present in the two meetings. All of them candidly stated that the Chief Minister as well as Smt. Dang explained the achievements of the party and asked the voters to make successful the party candidate. Besides giving a statement of policy the Chief Minister or Smt. Dang did not say that the finances were with them or that the Chief Minister was likely to succeed or that no development work would be done in case the congress candidate was not successful. Similarly Smt. Dang did not state that the people would only be permitted to seek audience with the Minister and other higher ups in the Government provided they supported the congress candidate. It is also significant that the Chief Minister was himself a candidate in the election. He would not promise road, schools or loans before his own result was out and if successful before he was in a position to form the Government. It cannot, therefore, be stated that may such promises were at all made by the Chief Minister who was himself contesting for a seat. Had he given a promise to give all these facilities before 5th March, 1972, which was the date of poll, something could be stated in favour of the petitioner because then he would have influenced the votes. It is manifest no such promises could be made by him before the date of election. No body could believe that the Chief Minister was bound to succeed or that he would command majority and would form the Government. It is, therefore, difficult to believe firstly that the Chief Minister or Smt. Dang spoke in the manner stated against them and secondly any influence was at all created by their speeches upon the minds of of people. There was already an uncertainty as to the formation of the Government. by Dr. Parmar or his supporters.

The five witnesses of the respondent are Gopal Singh Chairman of Block Smiti (DW 7), Sher Singh President of Rohru Congress Committee (DW 12), Kadar Singh, member of the D. C. C. and election worker of the congress, party (DW 13) Hazari Nand Pradhan of Congress, Rohru Mandal (DW 20) and Gian Singh father of the respondent (DW 21). All of them stated that the substance of the speeches was that the congress had fought the independence battle and had already done so much for the constituency and, therefore, the congress candidate should be voted. The witness Gopal Singh (DW 7) had arranged for the dias and tea party in the Rest House st Chadgaon. The Congress party had spent in these arrangements. Sher Singh (DW 12) stated that the public leaders did ask the people to vote for 'Indira Sarkar' According to Sher Singh (DW 12), Jai Lal PW 23 and Sohan Lal PW 22 were not even present in the meeting.

The witnesses further stated that the local congress party had set up the stage and had fixed up the dates and timings of the meetings. Shri Kedar Singh (DW 13) stated that the public leaders had told that the congress had done work in the past and the candidate Amrit Singh should be voted. Shri Amrit Singh also stated that he was a congress candidate and should be given success in the election. Hazari Nand (DW 20) stated that Sohan Lal (DW 22) and Jai Lal (PW 23) were not even present in the meeting. Shri Gian Singh (DW 21) similarly stated that in the meeting it was never stated that the Chief Minister would not give finances unless congress candidate was returned successful in the election. Shri Amrit Singh respondent (DW 23) of cousre was present in the two meetings and he also denied that any such speeches were given by the Chief Minister or Smt. Dang. Rather they had stated that the congress had fought freedom battle and had governed the country for 25 years and had done much work for the constituency. Thus these political leaders had given only speeches based on policy of the congress Government. They justified to make such speeches. According to the respondent, Dr. Parmar had addressed those meetings as the leader of congress organisation. The respondent denied that he had arranged for the tea or lunch or even those meetings. The arrangements were made by the local Congress Committee It is, therefore, abundantly clear that the Chief Minister, Dr. Parmar and the General Secretary Smt. Dang did not state in their speeches. anything which may amount to corrupt practices of bribery or undue influence. They confined their speeches to congress policies. They stated about the achievements of the congress party and wanted the voters to return the congress candidate. As political leaders they were justified to give these speeches. After the two meetings, both at Chadgaon and Rohru, according to the petitioner, the Chief Minister and Smt. Dang addressed the workers meetings. In those meetings, they asked them to make propaganda, amongst the people and convey the contents of the speeches so that congress votes were assured. In the petition it was alleged that both Dr. Parmar and Smt. Dang had addressed the workers meetings. It was not stated Smt. Dang, told the workers while she addressed them that propaganda be made with reference to signatures and thumb impressions which would enable the party to know as to who had gone against the congress candidate and that he would be met with dire consequences. In the oral deposition of withesses, a departure was made from the pleadings and it was stated that Smt. Dang as well as the Chief Minister did state about the propaganda that was to be made with reference to signature and thumb impressions. A plea which was not taken in the petition could not be stated at the evidence stage. In this connection reference need be made to Manubhai V Popatlal (A.I.R. 1969 SC, 734) (Supra). Evidence cannot be adduced regarding a plea not disclosed in particulars given in the petition.

It is then to be ascertained as to what these political leaders stated while they addressed the workers meetings. Shri Sohan Lal (PW 22) was not a congress worker. Nobody invited him to attend the congress workers meeting. He cannot name those 10 or 12 persons who were outsiders and were present, according to him, in the workers meeting. The witness did not tell Shri Bushahri about that propaganda which was suggested by

Dr. Parmar and Smt. Dang. He was a poling agent of Shri Bushahri and an such he was known to every body. He could not, therefore, be present in the workers meeting of the congress. The witness cannot tell if any person was at all influenced in favour of the respondent because of that propaganda.

As such he has nothing to say as to the material effect which this alleged propaganda may have created. Jai Lal (PW 23) was an active worker of Jan Sangh party. As such it was not difficult to locate him, if at all he had gone to attend the workers, meeting. He must not have gone there. His presence is already denied by so many witnesses produced by the respondent. Nobody had invited him to go to the Rest House to attend meeting. According to Jai Lal (PW 23) Dr. Parmar and Smt. Dang did not make speech in that workers meeting. This is in contradition to what Sohan Lal (PW 22), had stated. Munshi Ram (PW 24), however, stated that Dr. Parmar had addressed the workers and had asked them to make the propaganda. Similarly Smt. Dang stated to the workers to make the propaganda with reference to signatures and thumb impressions which were to be taken from the individual voters before issuing the ballot papers. The witness was again a polling agent for Shri Bushahri and according to him he was working for him in an open manner. He had started election work of Shri Bushahri from 10 to 15 days before the date of election. As such he would have been located at once had he gone to attend the workers meeting. Admittedly he was not invited to attend that meeting still he went there and took tea alongwith others. Munshi Ram (PW 24) very significantly stated that except him no other worker of Shri Bushahri was present in that meeting. Similarly no worker of Shri Dhawan the third candidate was present in that meeting. Thus by his statement he denied the presence of Sohan Lal, (PW 22) and Jai Lal (PW 23) in these meetings. The petitioner himself was not present in the workers meetings and so he cannot testify as to what was stated there. The petitioner, however, admitted that in the particulars which he supplied in the petition, he did not mention about the propaganda regarding the thumb impression and signature suggested by Smt. Dang. The result in that the petitioner had not succeeded in producing any independent witness to prove as to what was stated either in the two meetings or in the two workers meetings at Chadgaon and Rohru. As regards the witness of the respondent he gave his own statement and produced four witnesses Sher Singh DW 12, Kedar Singh DW 13, Hazari Nand, DW 20 and Gian Singh (DW 21) who were also examined by him to state about the two meetings addresed by these leaders. All these witnesses who were more likely to be present in the congress workers meetings, being the office holders in the organisation stated with one voice and that neither the Chief Minister nor Smt. Dang addressed the workers' meeting nor did they ask them to make any propaganda of like nature, as stated by the petitioner.

It is also difficult to say that Dr. Parmar and Smt. Dang were the agents of the respondent or obtained his consent for addressing the two meetings at Chadgaon or Rohru. It could not be proved that the respondent had arranged those meetings or that he met the expenses of tea or lunch which was provided. Evidently the congress party was organizing such meetings. The Chief Minister and the General Secretary were making tours throughout the Pradesh. Similarly they visited Chadgaon and Rohru. It cannot be stated that these meeting fell outside their general programme of addressing meetings in support of the election besides the statement of the petitioner, reference in this connection, need be made to the statements of seven witnesses Partap Singh PW 5, Balak Ram PW 6, Arak Singh PW 8, Kahan Chand PW 19, Sohan Lal PW 22, Jai Lal PW 23, and Munshi Ram PW 24. None of these witnesses can be considered independent and sufficiently reliable. Pratap Singh PW 5 was admittedly the election worker of Shri Bushahri. He stated that the petitioner met him at Chadgaon and told him to attend the meeting which was to be addressed by Dr. Parmar and Smt. Dang. The witness was removed from the services of Himachal Pradesh State Co-operative Federation and the suggestion was that he was doing active work for Shri Bushahri and did not attend to his duties and, therefore, he was removed from the office. Shri Balak Ram PW 6 gave a similar statement. According to him Shri Amrit Singh had told that the Chief Minister was arriving at Chadgaon and people should go to attend the meeting. If the respondent at all stated like that no exception could be taken to that. The meetings were being organised by the political leaders for the success of the congress candidate. Therefore, when this witness of the petitioner stated that Shri Amrit Singh had asked the people to go and attend the meetings, no exception could be taken to this. PW 8 Arak Singh also stated that Gopal Chand who accompanied Shri Amrit Singh respondent told them to go to Chadgaon and hear the speeches. Kahan Chand PW 19 stated that Shri Amrit Singh was sitting on the dias alongwith the Chief Minister. No exception can be taken either to this conduct, as Shri Amrit Singh was the candidate and he should have been present in the meetings. Sohan Lal PW 22 stated that Shri Amrit Singh had gone to his shop and told him that they should go to hear the speeches to be delivered by Dr. Parmar and Smt. Dang. As stated before this conduct of Shri Amrit Singh could not be questioned. Similar is the statement of Shri Munshi Ram PW 24. Therefore, these witnesses of Shri Bushahari of course stated that the respondent was making the propaganda so that the people might collect to hear the speeches. He also thanked the speakers. As against this evidence, the respondent himself denied that he had arranged these meetings or that he had met the expenses. Amar Nath Bijawaria DW 9 produced the tour programme Ex. DW 9/1 of the Chief Minister. Although copies of the tour programme were sent to the candidates. Yet from that fact alone it cannot be inferred that the candidates were required also to meet the expenses of the meetings. According to Shri Bijwaria the Himachal Pradesh Congress Committee had prepared the tour programme of the political leaders. No request was made by Shri Amrit Singh for any such meetings. Smt. Dang being the General Secretary had organised election compaign for all the constituencies. The respondent never approached Smt. Dang to visit his constituency in particular Shri Sher Singh DW 12, President of Rohru Congress Committee stated that the candidate themselves did not fix the time or place or such meetings. That was the work entrusted to the local congress.

From this evidence it is easy to conclude that the Chief Minister and Smt. Dang were not the agents and whatever meetings they addressed they did, in their individual capacity without making the respondent liable in any manner for such speeches. This is besides the findings that in their speeches themselves nothing was stated which may amount to corrupt practice within the meaning of the section 123 of the Act of 1951.

In this connection it has further been contended by the petitioner, that subsequent propaganda was made of those speeches delivered by Dr. Parmar and Smt. Dang. The petitioner supplied particulars by naming specific

persons who made this propaganda between 1st March, 1972 and 5th March, 1972. It would then be necessary to assess the evidence which existed for such propaganda or convassing. The petitioner stated that Bhagat Ram DW 6 and Pyare Lal DW 8 made this propaganda in village Kothari, Khalgar and Nalaban. The Single witness of the petitioner Krishan Chand PW 3, the presiding officer of Kothari Polling Station, however, denied this version. This witness very much stated that Bhagat Ram or Pyare Lal were Polling Agents of Shri Amrit Singh but they did not make any such propaganda at the polling station or within 100 yards of its of prohibited limit. There were no complaints against these two persons as regards convassing or propaganda of like nature. The respondent produced three witnesses, Bhagat Ram DW 6, Pyare Lal DW 8 and also Gian Singh DW 21 to controvert the allegation of the petitioner.

There is no reason to disbelieve the statements of these witnesses. Bhagat Ram DW 6 stated that no convassing was at all made by him or Payare Lal within the prohibited area of the polling station. They never made propaganda that thumb impression or signatures would be taken and it would be known as to whom had voted and for whom. They had never stated that no development work would be done, no loans would be granted or that the High School building would not be constructed if the congress candidate was not voted. Similarly stated Payare Lal DW 8. He also denied that Gian Singh DW 21 had promised to contribute Rs. 2500 in the construction of the School building. In fact Gian Singh DW 21 did not make any such contribution in the construction of the School building. Gian Singh DW 21 of course denied that any such propaganda was made at Kothari pollings station or at any of the villages Khalgar or Nalaban. He stated that he had not contributed Rs. 2500 or any lesser amount in the construction of the School building. Amrit Singh respondent supported Gian Singh DW 21 in this connection. Therefore, there is no iota of evidence in support of the allegation made by the petitioner with reference to Bhagat Ram and Pyare Lal.

About Durga Singh of Khalai polling station, it was stated that he threatened one Pania at the Polling Station itself. It is contended that he also made propaganda about the speeches in Khalai village. Except the the petitioner PW 27 no one came to support this version. The petitioner himself only heard about it from the others and so there is no evidence whatsoever in support of the contention regarding Durga Singh. On the other hand Bhagat Ram Dashta DW 2 the Presiding Officer denied that Durga Singh ever made such a convassing or propaganda. No complaint was received against him from any quarter. Durga Singh DW 10 was himself produced by the respondent and he categoricially denied that he threatened Pania or made that propaganda at the polling station or inside the village. Thus nothing was proved against Durga Singh of Khalai.

About Shyama Nand of Hanstari Polling Station it was stated that he made the propaganda about the speeches, in Hanstri village and also in Nawar Valley. Except Tani Ram PW 25 no other witness turned up even to refer to this propaganda. Tani Ram PW 25 produced a letter marked Ex. PW 25/A said to be written by Shayama Nand to the witness. There was no plea taken in the petition regarding this letter. Shyama Nand was not produced from any side to prove or disapprove this letter. However, according to the statement of Gian Singh PW 21, he made efforts to trace out Shyama Nand but could not find him and so he was not produced by the respondent. Gian Singh DW 21 as well as the respondent DW 23 denied that this letter is in the handwriting of Shyama Nand. Both Gian Singh and the respondent had the occasion to see the hand writing of Shyama Nand because they were doing Potato business with him and they were receiving letters from Shyama Nand. It is stated that Shyama Nand had asked Tani Ram to vote for Shri Amrit Singh because of the speeches delivered by Dr. Parmar. Tani Ram PW 25 seems to be inimical with Shri Amrit Singh because of certain loan which his father had taken and in return of such loan certain property belonging to Tani Ram had to be given to Gian Singh. The letter was not even summoned from Tani Ram. Nonethless he brought that letter. The witness had no personal talk with Shyama Nand about the letter which was for his being appointed as polling agent and for which he had refused. When Shri Bushahri came to know about this letter on 11th March, 1972, as stated by Tani Ram PW 25; why did he not reply upon this petition. As such it was not proved that the letter Ex. PW 25/A was written by Shyama Nand. Beside this the petitioner did not rely upon this letter and never mentioned it in his particulars. No evidence can be given in proof of such letter. It is safe to conclude that no evidence existed against Shyama Nand for the alleged propaganda.

It is then contended by the petitioner that Bishan Dass and Agar Chand did this propaganda Chopari between 1-3-1972 and 5-3-1972. In this connection reference need be made to the statements of Jamku PW 14 and Baljit PW 15. Out of these two witnesses, Jamku PW 14 stated that Bishan Dass was found making propaganda at Chopari village and also at the polling station Chopari. He was telling about the speeches delivered by Dr. Parmar at Chadgaon and Rohru. He also stated about the thumb impressions and signatures. Baljit PW 15 merely stated that Bishan Dass was found amongst the people standing at the polling station, Chopari. Bishan Dass was admittedly the polling agent for Shri Amrit Singh. Both the witnesses, did not state to Shri Bushahri about the actvities of Bishan Dass and it is not known how they have been procured as witnesses on behalf of Shri Bushahri. Khan Chand PW 19 also stated that Bishan Dass and Agar Chand had visited his village and they were making propaganda about the signatures and thumb impressions. However, he too did not mention that propaganda to Shri Bushahari. So it is not known how he has been produced to state about it. Similarly he did not complain to the Presiding Officer, Chopari Polling Station, about that propaganda which he should have done, had he any grievance against Bishan Dass and Agar Chand. As against the statements of these three witness, we have the statement of the Presiding Officer Hira Singh DW 18 and of witnesses Kalgi Nand DW 4 and Sadhu Ram DW 11. The Presiding Officer Hira Singh denied that Bishan Dass even made any propaganda within or outside the polling station. He did not state about the thumb impressions or signatures nor threatened people with that reference. The Presiding Officer also stated that no one complained against Bishan Dass. There is no reason to disbelieve the Presiding Officer. Kalgi Nand DW 4 was the polling agent for Shri Bushahri and he stated that Bishan Dass never made that propaganda and no complaint was made to him against Bishsn Dass. The witness being the polling agent for Shri Bushahri was bound to have received the complaint against Bishan Dass, had that propaganda been made. Sadhu Ram DW 11 was present at the polling station. Chopari as he was voter attached to that station. He denied that Bishan Dass or Agar Chand were making any propaganda inside or outside the polling

station. In this manner nothing was proved in respect of Bishan Dass or Agar Chand.

About Gian Chand and Shobhal Ram it was stated that they were making similar propaganda at Kotara polling station and also villages Khawara, Karalas and Bhamnala. It was averred by the petitioner that they were refering to Rohru speech of the Chief Minister in their propaganda. Sidhu Ram PW 17, Mangal Jiu PW 20, Tani Ram PW 25, Kewal Ram PW 26 and Bushahri PW 27 need be referred in this connection. Sidhu Ram PW 17 stated that this polling station was Kotara and he was Gian Chand and Shobhal Ram saying to the people that they should vote for the congress otherwise they would face the consequences. The witness did not com plain to the Presiding Officer or to any body about that propaganda being made by them. This he would have certainly done had he any grievance in respect of the conduct of these persons Mangal Jiu P.W. 20 produced a letter Ex. PW 20/A written by Shobhal Ram in proof of this allegation. It is again significant that the letter was not specified in the petition itself. It was not summoned from the witness. The circumstances governing the production of the letter rather indicate that the same has been produced from Shobhal Ram, who is by and large an un-dependable witness. I would presently deal with this letter pointing out any reasons for disbelieving it. For the present it may bestated that Mangal Jiu P.W. 20 did state that nearly 5 persons were standing while Shobhal Ram came to his village Karalas and told them about Rohru Speech delivered by the Chief Minister. The Witness did not tell Bushahri or any body else about that propaganda made by Gian Chand and Shobhal Ram. Therefore, it is difficult to accept that Bushahri came to know about the letter Ex. PW 20/A as well as about the propaganda from before so that the witness was asked to produce the letter. According to Shri Amrit Singh he was to act as polling agent for 5th March, 1972. He was not supposed to do any work of the respondent before that date. If he wrote down such a letter, that was his own responsibility. He never did so with the consent of the respondent. Mangal Jiu PW 20 did not complain to the Presiding Officer about that propaganda made by Shobhal Ram. Tani Ram PW 25 identified the hand writing and signatures of Shobhal Ram on Ex. PW 20A. Kewal Ram PW 26 of course stated that he reached the polling station, Kotara and found Shobhal Ram and Gian Chand telling the people that they should take regard of the congress candidate and vote for him. Like others Kewal Ram also did not complain to anybody about that propaganda. Shri Bushahri petitioner PW 27 stated that he had sent message to Mangal Jiu to produce the letter, although he had not read it from before. According to him, the letter was in his knowledge and that is why he asked the witness to bring the letter although he did not summon it from him.

Against this evidence concerning Gian Chand and Shobhal Ram, the respondent produced the Presiding Officer Bir DW 3 of polling station Kotara. He has denied that Gian Chand or Shobhal Ram who were the polling agents of Shri Amrit Singh ever made that Propaganda within the area of the polling station. No one made any complaint to him regarding such propaganda made by them. Every body was free to exercise his vote at his polling station. Besides the statement of Presiding Officer, the statements of Shohbhal Ram PW 5 and Laxmi Ram PW 15 need also be considered. Sobhal Ram PW 5 of course denied that he ever made that propaganda. Whatever he stated about the letter Ex. PW 20/A would presently be stated. Shobhal Ram further stated that he did not work for Shri Amrit Singh before the date of the poll and so there was no occasion for him to have gone to village to make that propaganda. Laxmi Ram PW 15 was also voter attached to polling station, Kotara. He stated that Shobhal Ram and Gian Chand were not making any propaganda regarding the signature and thumb impressions.

Now I shall advert to the letter Ex. PW 20/A. Mangal Jiu PW 20 produced this letter. According to him the letter was brought by Shobhal Ram to his son but it was addressed to him. The witness is illitrate and cannot distinguish between Hindi writing and English writing. Gian Singh his son who received the letter was not produced. Gian Singh could not even tell Mangal Jiu as to who gave the letter to him. The petitioner's information was therefore, totally unconvencing as to the person who brought that letter. Gian Singh was the best person to have stated about it and he was not produced. The petitioner however stated that he had come to know about this letter and he had asked Mangal Jiu to produce it. But Mangal Jiu was not summoned with this letter. Sobhal Ram DW 5 at first denied that the letter was in his hand-writing or bears his signature. He stated that he does not know Mangal Jiu nor did he know his sons. According to him it is wrong to suggest that he gave this letter to the son of Mangal Jiu. The witness was asked by the petitioner to give specimen writings which he did before the Court. He also produced some admitted writings. The indication was obvious that a comparision of writing by an expert was intended. Later on the application (E.M.P. 5/73) was moved asking for comparision of hand writing by an expert. The witness Shobhal Ram was to be summoned at the expenses of the petitioner to produce some more admitted writings. On a subsequent date Shobhal Ram was found present in the Court and a request was made extended on behalf of the petitioner that his statement be recorded.

Accordingly the witness was asked to produce some more writings to facilitate comparision by the expert. He surprised the court by stating that he would admit the hand writing and signatures of Ex. P.W. 20/A to which he had denied previously. When asked about the letter Ex. PW20/A he stated that the letter was in his hand writing and it bears his signatures. He further stated that he came to know Shri Bushahri from a few days and was cross-examined with a suggestion that he wrote the letter at the instance of Shri Bushahri and produced it in court. In this manner the witness blow hot and cold in the same breath. At first he denied the authorship of the letter but later on acknowledged it, obviously under the influence of Shri Bushahri such a witness cannot be depended upon. He is likely to state falese at the instance of any party. In fact Mangal Jiu being totally illiterate should not have been sent this letter by Shobhal Ram. Shobhal Ram DW 5 subsequently stated that Mangal Jiu never wrote any letter to him. He also stated that he had personnally given this letter to Mangal Jiu. It is very unlikely that he would have done so. A letter was not needed to an illiterate person and Shobhal Ram could have orally stated Mangal Jiu. The entire statement is so unnatural that no reliance can be pleased on it. The only inference is that Shobhal Ram was made to write this letter in furtherence of the interests of Shri Bushahri.

Thus nothing is proved in favour of the petitioner with reference to Gian Chand and Shobhal Ram. The petitioner produced Shri Shobhal his Dy. Assistant Government Examiner of Questioned Documents and he proved his report Ex. PW 28/1. After a comparision of hand-writing, he gave the opinion that the letter Ex. PW 20/A was written by Shobhal Ram. As I have stated

above Shobhal Ram himself has admitted the authorship of this letter. This admission coupled with the report of Shri Dey makes it beyond doubt that the letter Ex. 20/A was written by Shobhal Ram DW 5. An attempt was made by the learned counsel for the respondent in cross-examination so as to disbelieve the report of the expert. In my opinion nothing materially was achieved by the learned counsel and the letter is proved in the hand-writing of DW 5 Shobhal Ram.

About Chain Ram Negi and Tulsi Ram it is stated that they made propaganda at Nandla village and referrd to the Chadgaon speech of Dr. Parmar. In this connection reference need be made to the statements of Bhadru PW 11, Kahan Chand PW 12 and Muni PW 13. Chain Ram and Tulsi Ram are stated to have gone to Nandla on 1-3-1972 and stated there that the people should vote for congress because of speeches delivered by Dr. Parmar and Smt. Dang. They also referred to the contents of those speeches. They also stated about the signatures and thumb impressions by the help of which identity of the voters was to be disclosed. The witness Bhadru PW 11 did not tell Shri Bushahri or anybody else about this propaganda made by Chain Ram Negi and Tulsi Ram. He did not complain to the polling officer or the presiding officer about that talk which these persons were making at the polling station itself. This is a conduct which cannot be believed as the witness being interested in Shri Bushahri must have complained with authorities Khan Chand PW 12 gave a similar statement He also did not tell Shri Bushahri or any body else about that propaganda which these persons had made at Nandla. However, affirmed that he did complain to the Presiding Officer about that propaganda. The presiding officer Shri Subhash Chand DW 1 however denied that any such propaganda was made by Chain Ram Negi or Tulsi Ram or that any complaint was made to him. Muni PW 13 similarly stated about the propaganda supported to have been made by Chain Ram Negi and Tulsi Ram. He also did not tell Shri Bushahri or any body else about that propaganda. It is very difficult to believe how these three witnesses were procured by Shri Bushahri about the propaganda made by Chain Ram Negi and Tulsi Ram.

As against these witnesses of the petitioner, the statement of Shri Subhash Chand DW 1, Presiding Officer need be referred. As I have stated before he denied that Chain Ram Negi or Tulsi Ram did make that propaganda or that he received any complaint against them. Both these persons were polling agents of Shri Amrit Singh Kudhru DW 19 was a voter at the polling station Nandla. He knew Chain Ram Negi and Tulsi Ram. He did not see them making any propaganda at the polling station. Nor did they make any propaganda in the constituency as stated by the petitioner. Thus nothing satisfactory was proved against Chain Ram Negi and Tulsi Ram.

The petitioner averred that Gopi Chand of Rohal made propaganda about the speech of the Chief Minister, in Rohal village and also to the persons residing in Jhiga Valley. These personsw ere named as Hari Singh, Shyam Singh, Shyam Lal, Mangal Dass and Shikru. Out of them only Hari Singh PW 8 was produced and the remaining were not produced. The petitioner relied upon the statement of Kalam Singh, Presiding Officer, PW 2, Pratap Singh PW, 5 Arak Singh PW 8, Hari Singh PW 9 and Shyam Sukh PW 10. The Presiding Officer PW 2 to the surprise of the petitioner did not support him. He merely stated that Gopi Chand was found speaking a bit louder as he was in a drunken condition and he was asked to go away. No one complained to him for any propaganda having been made by Gopi Chand. Pratap Singh PW 5 produced a letter Ex. PW 5/A said to be written by Gopi Chand to him. Again this letter was not mentioned in the petition. It was not summoned from the witness. Shri Bushahri some how come to know about this letter and asked Pratap Singh to bring it with him. Thus this letter again is of doubtful validity. As we have learnt about the letter Ex. PW 20/A belonging to Shobhal Ram, it is not difficult to believe that this letter to was procured to suit the occasion. Pratap Singh PW 5 of course stated ..... propaganda said to be done by Gopi Chand. At first he stated that Gopi Chand was his unlcle but later on denied by saying that..... because of respecf and not be relation. The letter was ..... one Bhajan Singh who is not produced. It is a peculiar ..... that both the letters Ex. PW 20/A and Ex. PW 5/A were sent through intermediaries who were not examined. The witness never told Shri Bushahri about this letter nor he told about it to any body else. All this shows that the letter is of doubtful validity. Arak Singh PW 8 stated about the prepaganda made by Gopi Chand. According to him Gopi Chand was shouting at the polling station that he was already seeing the marks on the ballot papers and that he would deal with those persons who have not voted for the congress. Despite this it is surprising that no one complained to the Presiding Officer PW 2. According to Arak Singh PW 8, Thakur Sen who was the Polling Agent of Shri Bushahri did complain to the Presiding Officer about the conduct of Gopi Chand. Thakur Sen has not been produced and the Presiding Officer has denied that any such complaint was even made to him. Hari Singh PW 9 gave a similar statement in favour of the petitioner. He did not tell Shri Bushahri or any body else about that propaganda made by Gopi Chand. He did not made any complaint to the Presiding Officer. Shyam Sukh PW 10 also admitted that he did not tell Shri Bushahri or any body else of the propaganda of Gopi Chand. He not make any complaint to the Presiding Officer or to the higher authorities. He did not complain to Thakur Sen about the conduct of Gopi Chand. For all this he cannot be believed to have stated the truth. Shri Bushahri PW 27 significantly stated that Pratap Singh PW 5 did not tell him about the letter Ex. PW 5/A. He had told about it to one Bhagwan Dass and the latter informed him about the letter. Bhagwan Dass was not produced as witness. Thus the origin and the production of the letter Ex. PW 5/A is also of doubtful validity. As againt these witnesses of the petitioner, the respondent relied upon the statement of Gopi Chand DW 22. He emphatically denied that he wrote the letter PW 5/A to Pratap Singh. He has also denied that he made any propaganda of like nature as stated by the petitioner. Thakur sen the Polling Agent of Shri Bushahri did not compalin against him. He also denied that he exercised any pressure upon Hari Singh, Shyam Singh, Shyam Lal, Mangal Dass and Shikru as stated by the petitioner.

The petitioner has taken exception to the statement of Gopi Chand DW 22 when he stated that he had arrived in Simla some time in the first week of July, 1972 and met Shri Bushahri who made him write the Ex. PW 5/A. The witness further stated that he was involved in some criminal case. Shri Bushahri wanted to help him and directed him to write the letter at his dictation. The witness was in need of bail in that criminal case. Shri Bushahri arranged for that bail of whatever value the statement of the witness may be, for the reasons stated above, the letter Ex. PW 5/A having not been produced under a normal procedure and having not been supported by Bhagwan Dass who had come to know about it, losses much of its evidentiary value. I have before me the instance of the letter written by Shobhal

Ram. There was no difficulty of procuring such a letter from another witness. If one reads these letters all details are found in them regarding the speeches deli-

at Rohru and also regarding the propagranda of signatures and thumb impressions which would divulge the secrecy of voting. It is as if these letters were written with a well defined purpose. The witness Gopi Chand became suspicious to the letter which wrote at the instance of Shri Bushahri. He went back to the village and told Dalip Singh about it. He was informed that he had committed a mistake and that he should not have written it. He also told Shri Amrit Singh about thus letter and the circumstances under which it was written. Thus the allegations imputed against Gopi Chand are not proved beyond doubt.

The petitioner alleged about Rattan Dass and stated that he had made the propaganda regarding the speech of Dr. Parmar at village Kaloti. He producedtwo witness in support of this propaganda. Zatu Koli PW 16 and Munshi Ram Polling Agent PW 25. Zatu PW 16 very much affirmed that he did not tell Shri Bushahri about this propaganda and he was telling it for the first time in the court. The witness nontheless caste his vote being uninfluenced by this propaganda. Similarly the other voters also caste their votes having been influenced by this propaganda. It is not difficult to have produced Zatu PW 16 to depose in favour of the petitioner. Munshi Ram PW 24 was polling agent of Shri Bushahri and so naturally he was interested in him. He stated that Kedar Singh and Ratten Dass were making that propaganda and they were also telling that the identity the voters would be disclosed by thumb impressions and signatures. Despite being the polling agent of Shri Bushahir he did not complain to the Presiding Officer or the Polling Officer about that propaganda. The witness had taken loan from the Government and he has not paid that loan and is perhaps resenting the realization of such loan by the authorities. That may be the reason why he has chosen to state againt the congress candidate.

In the last the instance of Joginder Singh is given. It is contended that he made the propaganda at Bachunch with reference to the speech of Dr. Parmar. For this the petitioner produced Mahender Singh PW 21. The witness stated, that at Bachunch Polling Station his brother Joginder Singh was polling agent for Shri Amrit Singh respondent. He was stating to the people about the thumb impression and signatures and also about the speech given by the political leaders. The witness did not tell Shri Bushahri or any body else and so it is not known how he had been produced. He did not caste his vote but still he seems to have gone to the polling station. He did not complain to the Presiding Officer about that propaganda. A suggestion was made that the witness was not even an elector at that polling station. Joginder Singh DW 14 himself was produced by the respondent who denied this propaganda. He stated that Mohinder Singh was not even present there. He denied that he specified anything about the speeches delivered by the political leaders or about the signatures or thumb impressions. Thus the propaganda petaining to Joginder Singh also remains un-substantiated. The Petitioner has also stated about the propaganda made by Jita Singh or Lila Singh at Gajyani polling station. Since there was no evidence forthcoming about that propaganda the learned counsel for the petitioner withdrew the plea for which he gave the statement recorded in the order sheet of 26th October, 1972.

In this connection reference need also be made to the statements of a few more witnesses. Sidhu Ram PW 17 is essentially a witness of P. S. Kotara and he stated for the shifting of that polling station. But he also stated that

case he was not voted the village would not get school, road etc. Tara Chand PW 18 came to state about P. S. Kotara and the shifting of the polling station. But he stated that Amrit Singh respondent has visited his village and referred to the speech of Dr. Parmar and was making propaganda. Nevertheless the witness was not influenced and caste his vote with free consent. Both these witnesses are not very much reliable. For the reasons to be presently stated their statements are un-satisfactory in relation to the shifting of the polling station and also in respect of arrangements made for the recording of the votes. They are clearly interested in the petitioner. They were made to state about the visit of Amrit Singh respondent in support of the plea of propaganda. Mangal Jiu PW 20 stated at Karala village one Pratap Singh was the polling agent of the respondent and he asked him to be careful and then vote in the election. This plea is not to be found in the petition and hence ought to be ignored. Mohinder Singh PW 21 stated that the respondent referred to him the speech of Dr. Parmar and stated that they should follow his instructions and should make propaganda regarding it. The witness further stated that the respondent did not give him the details as to what propaganda was to be made. As such his statement is good for nothing. Tani Ram PW 25 stated that Gian Singh had come and made that propaganda with reference to the speeches delivered by the Chief Minister. The witness had become enemy of Gian Singh because of certain loan which his father had taken from him. Gian Singh and Amrit Singh respondent have of course denied that they ever made any such propaganda nor did they visit the villages specified by these witnesses for any such propaganda.

It can, therefore, safely be concluded that no corrupt practice is proved against the respondent with relation to the speeches delivered by Dr. Parmar, Chief Minister and Smt. Satya Wati Dang, the General Secretary of the Congress. It has also remained un-substaintiated that any propaganda was made with regard to such speeches by the persons named by the petitioner. Similarly no propaganda whatsoever was made at the polling stations so that the voters were threatened or were tempted to vote in favour of the congress candidate. The allegations of bribery and undue influence which are instances of corrupt practices under section 123 of the Act of 1951 have not been established. It is not proved that the two meetings were organised at the instance of the respondent or that the Chief Minister or the General Secretary were the agents of the respondent while they made those speeches.

From all this it is safe to conclude that the corrupt practice of bribery of undue influence was not committed by the candidate respondent nor by his agents nor by any other person with the consent of the candidate respondent.

The issue is, therefore, decided against the petitioner.

Issue No. 6.

The contention of the petitioner has been, that the election, in so far as it concerned the respondent has been materially affected, by corrupt practices committed in the interests of the respondent by an agent other than his election agent and also by non compliance with the provisions of the Constitution or of the Act of 1951 or rules

and orders made thereunder. In order to prove material effect, the petitioner was required to establish circumstances which necessarily led to that inference. Any general statement pointed out irregularities of whatever nature, without details as to how many votes were affected to the prejudice of the petitioner, will be of no avail. In such cases the tribunal has to see whether the burden of providing material affect has been successfully discharged by the election petitioner by demonstration to the tribunal either positively or even reasonably that the poll would have gone against the returned candidate if the breach of rules had not been occurred and proper poll had taken place at all the polling stations including those it did not. After considering the evidence adduced by the petitioner the only inference which can be drawn is that either no such irregularity as pointed out existed or if any such irregularity was at all committed, no substance could be found to establish that the result was materially affected in favour of the returned candidate. For this the petitioner had established may be approximately that no many voters had gone in favour of the respondent to the detriment of the petitioner. This he has not done and the evidence is entirely deficient in that regard. When asked to give particulars about the corrupt practices committed by any agent or about non-compliance of the rules made under the Act, 1951, the petitioner quoted instance with respect to the respective polling stations. It would, therefore, be convenient to take up individual polling station and state about the case of the petitioner.

P. S. Kothari No. 3/1 may be taken up as first in the series of particulars supplied by the petitioner. It is stated that the polling station, due to snow fall, was shifted from its notified place to the house of the one Jhina Singh who was active supporter of the respondent. There was not lighting arrangement and proper ballot marking was not done. About 200 voters were affected as they could not exercise their right of vote. There is no evidence as to how many of these 200 voters would have supported the petitioner. The evidence which need be considered on behalf of the petitioner with reference to this polling station is of Kishan Chand, Presiding Officer (PW 3) and of the petitioner himself (PW 27). The Presiding Officer did not support the petitioner. He denied that the polling station was at all shifted from its notified place. The polling station was to exist in Kalika-maidan, Khasra No. 498 and the temporary structure which fell down due to snow fall was shifted to another place inside this very Maidan which was again Khasra No. 498. The distance between the two polling stations was 100 or 150 steps. About 2 feet snow had fallen and the polling station was shifted in the lower story of the house in which the polling party was staying . There were windows in that room. The polling party burnt lantern and so sufficient light was available. No one canvassed within 100 yards of the polling station. The new polling station was visible from the old spot where the previous structure has stood. As such there was no necessity of making arrangement for giving direction to the voters to reach the new pollling station. The secrecy of poll was maintained and there was no difficulty in the marking of ballot papers. This statement of the Presiding Officer is definitely against the petitioner and does not prove any part of his case.

The other statement is of the petitioner himself who was of course interested to depose in his favour. Apart from this he had no personal knowledge about this polling station as he admittedly never visited it. The petitioner stated that Gian Singh (DW 21) had contributed Rs. 2500/- for the construction of Middle School of Kothari and that influenced the voting. There is no evidence for this contribution. Gian Singh DW 21 has denied that he made any contribution.

The respondent's witnesses Bhagat Ram DW 6 and Pyare Lal DW 8 may be considered in this connection. The respondent's own statement as DW 23 may also be considered. Bhagat Ram DW 6 was the polling agent. He admitted that the polling station was shifted to the house of Jina Singh but the later was the election worker of Shri Bushahri petitioner. That house was in front of the Maidan where the old polling station was set up and as such the house was visible from that spot. According to the witness gas light was provided. The both where the marking was being done screened and none could see as to who was voting and for whom. Pyare Lal DW 8 was the polling agent of respondent Amrit Singh. He too supported the statement of Bhagat Ram DW6 in every respect. He stated that lantern was burnt inside polling station and some natural light was available. The respondent DW 23 denied that Jhina Singh had worked for him in the election. He also stated that Jhina Singh has since died otherwise he would have produced him as witness. Thus the evidence of the petitioner in respect of Kothari Polling Station is very unsatisfactory and nothing is proved to indicate that the result of the election was materially affected because or any corrupt practice committed at that polling station or because of the shifting of the place of the poll. Besides that no irregularity was committed at the polling station itself in the matter of recording of voters.

For P. S. Khalai No. 3/10 it was stated by the petitioner that it was quite dark and the voters had to bring the ballot papers in the open for light and hence no secrecy was observed. Durga Singh Polling Agent of the respondent had threatened one Pania. It is admitted by the respondent that Durga Singh was his polling agent but it is denied that any convassing was made by him, at the polling station or Pania was threatened. I have already discussed the evidence pertaining to Durga Singh while dealling his case under the previous issue. I have already held that nothing is found proved against Durga Singh. Regarding the imputed irregularities of non-compliance of rules in respect of P. S. Khalai there is no evidence of the petitioner besides his own statement. It is obvious that the petitioner did not go himself to the polling station. So whatever he was informed about that polling station was hearsay. The respondent produced the Presiding Officer Bhagat Ram DW 2 and Durga Singh DW 10. Deshta DW 2 stated that the visibility inside the polling station was clear and to his knowledge no convassing was done. The voting was also secret The polling booth was covered from 3 sides. On the enterance of the booth a Pardha was hung and so none could see as to who was voting and for whom. This statement is sufficient to set aside the version of the petitioner. Durga Singh DW 10 who was admittedly present at that polling station supported the Presiding Officer. He too stated that natural light was present and there was no darkness. None was making propaganda and the voting was secret. Therefore, for Khalai P. S. there is no dependable evidence that any corrupt practice had committed and no non-compliance of the Act or rules was committed. There is absolutely no evidence as to the manner in which the result of election was materially effected in favour of the respondent.

For P. S. Chopari No. 3/36 it was stated that the temporary structure had fallen down due to snow fall. The polling station was shifted to a temple of Devta Godaru and Harijan voters could not enter the polling station.

For this the petitioner produced three witnesses besides giving his own statement, These are Jamku PW 14, Balji PW 15 and Khan Chand PW 19. Jamku PW 14 stated that the polling station was removed to a place near the temple *i. e.* not inside the temple. The place belonged to deity Godary. The polling station was set up adjacent to the temple wall. They had to pass through a Chowara of the temple. The witness had all along supported the petitioner in the three previous elections which the latter fought from this constituency. Thus he is very intimate with him and was very likely to come and state in his favour. The witness was unable to tell as to where the idol is instaleld in that temple so that it could be inferred as to whether Harijans could not enter the polling station due to any such reason that the idol itself was very near to that place. However the witness admitted that no one was stopping the Harijans from entering the polling station. From this statement it is clear that firstly the polling station was not shifted inside the temple and secondly even if the place was adjacent to or near the temple, it was not prohibited and the Harijans could very well go and cast their votes. Baljiv PW 15 gave a similar statement, Instead of Chowara he stated that the votes were being acorded at Chowkhandi of the Devta. This was an improvement upon the statement of Jamku PW 14. The witness Baljiv also admitted that no body was stopping the Harijans from entering the Chokhandi. Khan Chand PW 19 also stated that the polling station was situated in the Chowara of the temple. Thus he also differed from Jamku PW 14 as that witness never stated that the polling station was set up inside the precincts of the temple. The witness Kahan Chand PW 19, however, changed his version subsequently by saying that the way to the polling station was through the Chowara of that temple. According to him there was darkness inside the tent and the flap of the tent used to be lifted for marking. He could not deny that the Kolis did enter the polling station and cast their votes. The witness did not inform Bushahri about this irregularity which he noticed at the polling station. It is significant that this witness (PW 19) admitted at the tag end of his statement that Harijan voters very well enterd the Chowara. This statement almost clinches the issue against the petitioner. Harijan voters very well entered the Chowara ad if they did not go to cast their votes it was not due to shifting of the polling station. None of the witnesses could disclose as to how many votes were effected and in what manner the prospects of the petitioner would have infraned for success in the election. The voting per centage was 45.20 per cent at this voting polling station which was sufficiently high considering the average of the constituency which is hardly 33 per cent The petitioner PW 27 could only state that it is customary for the Harijans not to enter the temple premises. Even if that is so that polling station was not set up inside the temple and as stated by PW 19, that Harijans were free to go and cast their votes.

The respondent produced three witnesses with reference to P. S. Chopari. These are Kalgi Nand DW 4, Sadhu Ram DW 11 and Hira Singh Presiding Officer DW 18. Kalgi Nand DW 4 was the polling agent for Shri Bushahri and he was produced by the respondent. He did not support the petitioner. The polling station according to him, was never shifted to the temple. The polling was rather held at the notified place. The tent of the polling station was at about 50 yards away from the temple building. The secrecy of vote was maintained. There was sufficient light. The Harijans did enter the polling station and did cast their votes. No body was making canvassing within the prohibited area of the polling station. The witness also made inquiries from the Harijans of village Chamra dha and he was informed that several Harijans could not go to cast vote as snow had fallen and they had no shoes to put on. He stated in cross-examination that about 18 or 20 houses of Harijans existed in Chamradha village. None of them could go for voting because of their physical disability due to snow fall. As regards the Chowara or gate of the temple the witness stated that Harijans do enter the gate and their was no difficulty for them to reach the polling station. Sadhu Ram DW 11 was a voter at this polling station. He stated that the enterance was through the Chokhandi of the temple but the Harijans do enter the Chokhandi although they do not enter the temple proper. The Harijans used to enter the Chokhandi even during the regime of Raja and so there was no difficulty for the Harijans to go and cast their votes. Hira Singh DW 18 was the Presiding Officer. He stated that there was a small house known as Nararkhana outside the temple. Near the well of the Nararkhana a temporary structure was set up. The shifting was made due to snow fall. The polling station was shifted to 15 to 20 metres distance. The new olling station was at the notified place and so there was no irregularity. In fact the Harijans used to s t in the Nagarkhana for playing instruments during the time of Puja in the temple. Thus there was no difficulty for Harijans to have entered the Nagarkhana so as to reach the polling station. The witness denied that any voter had to lift the flap of the tent for light as sufficient natural light was already available inside the polling booth Secrecy of poll was maintained and no body was forced to give vote in favour of any person. The Nagarkhana is also known as Chokhandi according to his witness. In this manner the Presiding Officer has believed the statement of witnesses produced by the petitioner. Thus no corrupt practice was proved nor any non-compliance of the provisions of the Act or rules was established in respect of this polling station. Besides that it was not established as to how many Harijans voters did not come to cast votes and, if so, whether all of them were really casting votes in favour of the petitioner. There is hardly any evidence to prove material effect in the election to the prejudice of the petitioner which is requirement of Law. For P. S. Katara No. 3/30 the polling percentage was 65.40 per cent. As such there was hardly any effect of the shifting of polling station. No plea could be sustained that the voters were not given prior knowledge of the new polling station at this place also, due to snow fall, the temporary structure had fallen down. The polling station was shifted to the house of Raghbir Dass Zaildar and Gian Chand who were the polling agent for the respondent. According to the petitioner both of them canvassed within 100 yards of the polling station. The voters of Khaskhandi village did not come for voting as they did not know the new place of polling station. Sobhal Ram DW 5 had canvassed for the respondent and he threatened the voters by making reference to the speech of the Chief Minister delivered at Rohru.

The petitioner further stated that there was no secrecy observed in the matter of voting. All this is denied by the respondent except admitting that Gian Chand was the polling agent.

The petitioner relied upon the statements of Sidhu Ram PW 17, Tara Chand PW 18, and Kewal Ram PW 26; besides giving his own statement. Sidhu Ram PW 17 stated that the polling station was shifted below the verandah of the house of Raghbir Dass Zaildar and that there was no light inside the polling station. Persons standing outside the window could very well see the marking that was being done. The people residing in village Khaskandi could not come to vote as they did not know the new polling station. The witness, however, admitted

that Prithvi Raj who is the son of Raghbir Dass Zaildar was the polling agent for the petitioner. As such Raghbir Dass, if at all, entrusted with the canvassing must have canvassed in favour of the petitioner. The witness also admitted that the new polling station was visible from the old spot. As such it appears that there was no difficulty for any one of have located the polling station. According to the witness it could not be ascertained as to how many voters resided at Khaskandi nor it could be stated that all of them were voting in favour of the petitioner. The witness could not state either to Bushahri or to any body else of all that he stated in the court. Thus his statement is totally uncovincing and does not prove anything in favour of the petitioner. Tara Chand PW 18 gave a similar statement. However he also admitted that the new polling station was visible from the old spot. Thus he believed the statement of the petitioner that the voters of Khashkandi village could not go to poll because the new polling station was not notified. The witness himself cast his vote with his free consent and so he was not influenced by the canvassing of Shobhal Ram if at all that canvassing was done. I have already discussed above about Shobhal Ram and has found that he made no propaganda at the polling station in favour of the respondent. Kewal Ram DW 26 comes from village Khaskandi. He stated that he had met some other voters of that village and they stated that the new polling station was not to be found as the old structure had fallen down. At the same time the witness admitted that roof of the house of Zaildar Raghbir Dass where the new polling station was set up was visible from that spot where the old structure stood. He also admitted that inside the polling booth sufficient light was available which came through the window, although any body could see as to who was making and for whom. Prithvi Raj according to the witness, lives with Raghbir Dass Zaildar in the same building. The witness however, cast his vote with free consent. About himself he could not tell if any body could see his marking. Similarly others who accompanied him also cast their votes without any disclosure as the secrecy was maintained. Thus the statement of PW 26 is also of not much help to the petitioner. It was, however, stated by the petitioner (PW 27) that he learnt about the arrangements of P. S. Kothara from Prithvi Raj who was his own polling agent. He admitted that Prithvi Raj is the of son of Zaildar Raghbir Dass. Thus whatever information the petitioner received was not first hand and as such he could not very much improve upon the statements given by other witness.

The respondent besides giving his own statement produced three witnesses, Vir Singh, Presiding Officer DW 3, Shobhal Ram DW 5 and Laxmi Ram DW 15 and they all stated about P. S. Kotara and denied the allegations made by the petitioner's witnesses. The Presiding Officer Vir Singh DW 3 has to be relied upon because he is a government officer dis-interested in any candidate. He stated that the temporary structure had fallen and they had to shift the polling station inside the verandah which was a glazed one. There was sufficient light inside the polling booth. He had discussed the shifting with the polling agent of both the parties and also with the Lamberdar. They had no objection and only then the polling station was shifted to that house. The witness was careful to see that no irregularity was committed. That verandah was visible from the old spot where the temporary structure had stood. There is a distant relationship of the witness with the respondent and merely because of this, it is difficult to say that he should be disbelieved. Above all, he is supported by two other witness produced by the respondent. Shobhal Ram DW 5 corroborated the Presiding Officer and did not admit that he was making any propaganda in favour of the respondent. As stated above, Shobhal Ram DW5 was even wonover the petitioner as he admitted his signatures of Ex. PW 20/A for which he denied in his prior statement. The other witness Laxmi Ram DW 15 is more important as he belongs to village Khaskhandi. This witness, admitted that the new polling station was very well known and about 80 per cent voters from village Khaskandi had gone to cast their votes. Every body of the village knew the new place of voting. He also stated that Raghbir Dass Zaildar, was the election worker of Bushahri petitioner. The polling station was shifted at a distance of hardly 20 meters from the thrashing flour where the temporary structure had stood. There was sufficient light and secrecy of vote was uniformly maintained. There is no reason to disbelieve this witness. The respondent (DW 23) very much stated that Raghbir Dass Zaildar and Prithvi Raj were the workers of Bushahri petitioner. Thus the effect of shifting could not be adverse to the petitioner.

For P. S. Kotara, thus, it was not proved that any corrupt practice was committed by any agent of the respondent. No irregularity of definance of the provisions of the Act or rules was committed. There is absolutely no evidence that the result was materially affected in favour of the respondent because of such irregularities. No one has stated that so many voters of Khaskandi or any other village would have voted in favour of Bushahri had the polling station not been shifted. The voting precentage rather indicates that every body who wanted to cast vote did come to the polling station.

For P. S. Nandla No. 3/44 the voting percentage was 36.9 per cent which was decidedly higher than the average of the constituency. The petitioner submits that the tempory structure had fallen due to snow fall. The new polling station was set up inside a temple. No secrecy of voting was maintained. The Harijan voters of village Mangwani and Nandla could not enter the temple premises to cast their votes. In short, the petitioner was prejudiced. The respondent denied each of such allegations.

The petitioner relied upon three witnesses Bhadru PW 11, Khan Chand PW 12 and Muni PW 13. Bhadru PW 11 is a Koli by caste. He stated that the polling station was formerly in a primary school but the temporary structure fell down and it was shifted inside the temple of Devta Paras Ram. The polling place was the in fact a part of the chamber of the Devta. No secrecy of poll was maintained as the place where the marking was done was visible from outside. Chain Ram and Tulsi Ram were making propaganda at the polling station in favour of the Congress candidate. Several Koli voters did not go to the polling station. According to him they did not go to cast their vote as the polling place was a temple. He could not state who did not cast his vote from village Magwani. He stated that the voting was stopped at 3 P.M. which has been denied by the presiding officer Subhash Chand DW 1. The witness could not be believed and it seems he was over zealous to support the petitioner and deliberately stated wrong facts. The witness also admitted that no one had stopped Harijans to enter the polling station. They had not gone there by themselves. No one complained and not even the witness to the Presiding Officer that the arrangements of the light was improper or that the secrecy of the vote was not maintained.

Khan Chand PW 12 on the other hand stated that the polling station was not shifted inside the temple as stated by Bhadru PW 11 but was set up below the verandah of Devta Paras Ram. The shifting was made due to slush

created by snow fall. The gunny bags were spread for secrecy but none the less of the voters were exposed and could be seen. The polling station was near the temple and so the Koli voters did not enter the polling station. They did not go to cast votes of their own accord although no one could stop them from entering the temple premises. The witness being a Koli himself did go to cast the vote. He did not ask any Koli voter as to why he did not go to cast the vote. He never complained to any body that the polling station should not be shifted near the temple although he should have made such complaint being a member of Nandla Chak Panchayat. This witness also belied the statement of Bhadru PW 11 by saying that the voting continued upto 5 P.M. when the sealing of the boxes was done. Muni PW 13 is also a Koli by caste. He also stated that the polling station was shifted under neath the temple. Although young Koli voters did go to cast votes, yet old Koli voters could not go because they wanted to keep up the old convention of not entering temple premises. It is significant that the witness did not personally go to the polling station as perhaps he did not want to cast vote. As such he was no personal knowledge as to whether or not Koli voters came to cast their votes. The Kolis are stopped by the Pandits according to the witness, from entering the temple. The statement is patently incorrect because under the present law no Harijan can be stopped from entering a temple.

As against these witnesses of the petitioner, the respondent produced two witnesses, Subhash Chand DW 1 and Kundhru Koli DW 19. Again, the statement of the Presiding Officer Subhash Chand cannot be brushed aside because he is dis-interested to support any candidate. He stated that there was no building of primary school. As such the school was being held on an open space. The temporary structure of the polling station was set up on this open space. It had neither fallen due to snow fall nor was shifted to any temple. This structure was outside the precincts of the temple and was 20 feet away from there. Secrecy of vote was maintained. No body had canvassed and the voters were free to vote in favour of any candidate. The candles were burnt for light in the morning time. Later on the light had improved and there was no necessity of even burning the candles. Due to snow the structure had no doubt bent down but it had not fallen. In his diary, the presiding officer wrote the word "interrupted"for the purposes of polling but he explained that term by saying that the polling due to heavy snow fall was not so brisk and, therefore, he had used that word in his diary. Kudhru DW 19 is Koli by caste. He denied that the polling station was set up inside the temple. The witness as well as other Harijans did go to the polling station and they did cast their votes. The temple, according to this witnesses, was at 40 or 45 yards away from the polling station. Harijan of Magwani village had arrived in his presence and they did cast their votes. From this evidence which exists for P. S. Nandla, it is not difficult to conclude that neither any corrupt practice was committed nor any irregularity as there was no non-compliance of any provisions of the Act or the rules made thereunder. It is not known how many Harijan voters could not arrive nor could it be stated that they were all voters of the petitioner. Therefore, the evidence upon material effect is clearly missing. The Presiding Officer can be relied upon. The statement of the petitioner's witnesses, are to be discarded because of the discrepancies as to the place where the voting took place and their statement also do not inspire confidence.

For P. S. Jhanjwani No. 3/57 the polling precentage was 50.84 per cent.

The inference is obvious. It cannot be stated that Harijan voters did not go to cast votes or any appreciable number of voters desisted from voting. The petitioner contended that the polling station was notified to exist in Government Primary School which never existed. Rather the polling station was set up inside the temple of Devta Jablu. As such Harijan voters could not go to that place. The respondent denied that any temple of Jablu Devta existed in the village or that the polling station was shifted to any temple.

The petitioner relied upon the statement of Pratap Singh PW 5 and Jai Lal PW 23. Pratap Singh PW 5 stated that he had gone to village Jhanjwani on the polling day. He denied that the polling station was located inside the temple of Devta Jablu. Rather it was situated in a house near that temple. The Harijan voters were not entering the polling booth because of the vicinity of the temple. According to his estimate 50 or 60 Harijan voters must be attached to that polling station. He did not state as to how many of them did not come to cast vote or that they would have cast the votes in favour of the petitioner. The witness was formerly a clerk in the Co-operative Federation but he was removed from the service as he used to remain absent without leave. A suggestion was made that he was active supporter of the petitioner and neglected his official duties. The witness had no business to go to P. S. Jhagwani because he was himself registered at P. S. Dhagoli and must have gone there to cast his vote. P.S. Dhagoli is about a mile from P.S. Jhagwani, according to the statement of the witness himself. He further stated that he had gone to P.S. Jhagwani without any work. The witness never consulted the electoral roll to know as to how many Harijans voters were attached to the polling station. The polling station was located inside the house which belonged to one Bhajan Dass. Thus the statement of the witness is of no avail to the petitioner. Jai Lal PW 23 was not a voter at P. S. Jhagwani. He had gone there for election work. He also stated that the polling station was at first set up in the compound of the primary school, then it was shifted inside the temple. The allegation is not to be found in the petition and as such seems to be an after thought of the witness. The allegation made in the petition is that the polling station right from beginning was set up inside the temple Jabglu. The witness stated that some propaganda was being made by Pratap Singh but he never complained against him to the Presiding Officer. Similarly he did not complain to the Presiding Officer, that no secrecy was being maintained. He could not tell as to how many Harijan voters were attached to this polling station. Thus his statement does not prove material effect due to any such person upon the election.

In reply the respondent produced B. S. Patyal DW 16 the Presiding Officer and he belied the statement of the petitioner's witnesses in to for this polling station. Patyal stated that the notified place was primary school, Jhagwani and the polling station was set up in that building. It is wrong that the polling was held within the precincts of any temple of Devta Jablu. No threat or inducement was given to any voter. The secrecy of the poll was maintained. The witness never changed the venue of the polling station. However, he does not remember if there was any temple building near the school.

From this evidence it is abundently clear that the pe-

titioner again failed to establish any corrupt practice at this polling station. Similarly there was due compliance of the provisions of the Act and the rules made thereunder. The polling station was never shifted to any temple. As such the Harijan voters were not incapiciated. The polling percentage was sufficient and the inference is otherwise. There is no indication from the petitioner's evidence that any material effect to the prejudice of the petitioner was caused upon the election result.

For P.S. Ghagwani No. 3/72 the polling percentage was 37.57 per cent. This is again more than the average of the constituency. The petitioner contended that the notified place was Panchayat Bhawan but the polling station fell down and it was shifted inside Ovra which was quite dark and there was only one small door for enterance. The Presiding Officer used torch light and no secrecy to vote was observed. Several persons returned back as they did not know the new place of polling. Women voters did not enter the Ovra as it was dark inside and they were afraid.

The respondent submitted that notified place was Patwarkhana and the polling actually took place in the lower storey of Patwarkhana building. Further the respondent denied all the allegations as to the darkness or against secrecy of voting. Similarly the respondent denied that women voters did not go to cast votes.

The petitioner relied upon the statement of Balak Ram PW 6 and Zalamzor PW 7 in respect of this polling station. Balak Ram PW 6 stated that the Patwarkhana was two storeyed construction. Polling station was shifted to the lower storey which had no window and there was no arrangement for light. The entrance door was very small and the women voters were afraid to enter inside. The witness was polling agent for Bushahri and hence he cannot be considered independent. However, he admitted that the voters were casting votes with their free consent. The petitioner did not ask any woman voter so that it could be known as to whether she was afraid to enter the Ovra. The witness Balak Ram PW 6 could not tell the total number of woman voters attached to this polling station. He could not tell the number of such women voters who actually came and cast their votes. As such from his statement it could not be inferred that due to darkness, either any woman voter desisted from voting, or that she would have voted in favour of the petitioner. Zalam Zor PW 7 gave a similar statement. The witness further stated that he had met several women voters and they stated before him that they would not go to the polling station due to darkness. The witness, however, could not state that total number of women voters nor he could state as to how many women voters refused to cast their votes. At the same time he admitted however entered that Ovra cast his vote with his free consent. Torch light was being provided and he could see the ballot paper. The witness himself did not feel any difficulty due to deficiency of light. He could see the ballot paper and marked it. The polling staff had also burnt fire wood inside the room which gave them both warmth and light. The witness, although Lamberdar of the village did not complain to the Presiding Officer that the light was insufficient or that the women voters were finding it difficult to enter the polling station. He did not send any written complaint to any body against any irregular convassing which might have been done at this polling station. Thus the statement of Zalam Zor PW 7 is also good for nothing. He could not prove any material effect which might have been caused due to any such reason upon the election result.

As against these two witnesses, the respondent produced Shri Rup Raj Sharma DW 17, who was the Presiding Officer, at this polling station, of course being the best witness, he could state about the arrangement. The Presiding Officer categorically denied all that has been stated by the petitioner and his witnesses. He stated that the polling took place inside the building of Patwarkhana and was not shifted to any other place.

Formerly the polling station was set up in the court yard of the Patwharkhana. When snow fall and the temporary structure fell down it was removed within the Patwarkhana itself. Therefore, it was not a case of shifting at all. We denied that lighting arrangement was insufficient. He had used electric torches for light, he had also lighted four candles. The secrecy of voting maintained. No other irregularity regarding canvassing was committed by any body. No women voter either complained to him that she would not enter the polling station due to darkness. PW 7 Zalam Zor according to the witnesse, was not present as he was not deputed by him to assist in the voting arrangement. Zalam Zor is of course Lamberdar of Gajuan village. A little exception was taken by the learned counsel for the petitioner that the presiding officer had tied the torch by a wooden pole so that its focus was towards the ground. I do not think any objection can be taken to that arrangement. If the torch was tied to a pole and was focussed downward that was the best arrangement for giving light to the people entering the Ovra and also to the voters marking the ballot papers. The torch was of three cells and as such the light must have been sufficient. There is no reason to disbelieve the statement of the Presiding Officer. As such nothing is proved against the respondent with reference to P.S. Gajyani. No corrupt practice was committed. There was no noncompliance of the provisions of the Act or its rules. The shifting was proper. There was sufficient lighting arrangement. The secrecy of voting was maintained. It is also wrong to state that women voters did not enter the polling station due to any reason.

The last polling station is Tangnu No. 3/70 and the allegation is that it was located in a dark room and that no secrecy of voting was maintained. The petitioner relied upon the statement of Dalip Singh Fishta PW 4 and this witness rather supported the respondent. So there is no evidence in favour of the petitioner in respect o this polling station. Fishta stated that in the morning i was cloudly but the weather cleared later on. H observed every rule and no corrupt practice was commi ted at his polling station. No voter complained t him that the light was insufficient. The entire polling wa done in accordance with the rules. The secrecy of t voting was also maintained. As such Fishta did n support the petitioner. Obviously the respondent d not think it necessary to produce any witness to deny t contention of the petitioner in respect of P.S. Tangnu.

This exhausts the list of the polling stations submitt by the petitioner. Minor shifting of a polling statior permissible even under the rules. The only care requi by law is that the village people should be made kno the new polling station. Whatever cases of shifting h been pointed out by the petitioner these were done cause of emergency. It was not required of the Presid Officers to have postponed the poll itself. The shif was made to a near place which was very conveni None of the villagers had difficulty in discovering the polling station. It is, therefore, evident that no cor practice was committed by any agent of the respon of the nature specified by the petitioner. Similarly it not proved that any non-compliance with the provis of the Constitution or of the Act or rules and order r thereunder was made. At any rate there is no evic-

that the result of the election in so far as it concerned the returned candidate was materially affected in his favour as a result of these corrupt practices or non-compliance with the provisions of the Constitution or the Act or its rules.

This issue is, therefore, decided against the petitioner.

Issue No. 8:

As a consequence to my decision in the foregoing issue, the petition has no merit and no relief can be granted to the petitioner.

ORDER

The petition is dismissed. No corrupt practice has been proved to have been committed by the respondent or any body else on his behalf. The total amount of costs payable by the petitioner to the respondent is fixed at Rs. 2,000.

A substance of this decision shall immediately be intimated to the Election Commission and to the Speaker of the Legislative Assembly of Himachal Pradesh. Thereafter an authenticated copy of the decision shall be sent to the Election Commission.

D. B. LAL,
Judge.

August 10, 1973.

अनुपूरक

शून्य

PART I

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 4th March, 1974

No. 1-1/74-VS.—The following order by the Governor, dated the 2nd March, 1974, is published for general information:—

"I, S. Chakravarti, Governor of the State of Himachal Pradesh, in exercise of the powers vested in me by virtue of Article 174 of the Constitution of India, do hereby summon the Himachal Pradesh Vidhan Sabha to meet at 14.00 hours on Monday the 18th March, 1974, in the Council Chamber, Simla-4.

S. CHAKRAVARTI,
Governor.".

R. C. SHARMA,
Under Secretary,
for *Secretary.*

PERSONNEL (A-I) DEPARTMENT

NOTIFICATIONS

Simla-2, the 26th February, 1974

No. 3-3/74-Apptt.—On attaining the age of 58 years, hri Tarlok Singh, member of the H. P. Police, on pro- ation, posted as Deputy Superintendent of Police, Una istrict, shall retire from the Government Service, with fect from the afternoon of 5th March, 1974.

Simla-2, the 26th February, 1974

No. 1-10/62-Apptt. II.—The Governor, Himachal adesh, is pleased to accord *ex-post-facto* sanction to the ant of 6 days earned leave in favour of Shri Jai Chand, O (Civil), Sarkaghat, Mandi district, with effect from h January to 19th January, 1974 with permission to fix Sunday falling on the 20th January, 1974.

. Certified that Shri Jai Chand has since returned to y to the station from where he had procceded leave, after its expiry.

3. Certified that Shri Jai Chand would have continued to officiate as SDO (Civil), Sarkaghat but for his proceeding on leave mentioned above.

4. This is in supersession of Government notification of even number, dated the 2nd February, 1974 sanctioning 15 days earned leave in favour of this officer.

A. K. GOSWAMI,
Joint Secretary.

FOREST DEPARTMENT

NOTIFICATION

Simla-2, the 27th February, 1974

No. 8-5/73-SF.—Whereas the owner of the majority of shares in the land specified in the following schedule hav with a view to the Conservation of Forests thereon, represented in writing to the Collector of Solan district that, the said land may be managed on their behalf by the Himachal Pradesh Government as protected forest on such terms as may be mutually agreed upon.

Now, therefore, the Governor of Himachal Pradesh in exercise of powers conferred by section 38 of the Indian Forest Act, 1927, is pleased to declare that sections 30, 32, 33, 34 and 68 of the said Act shall apply to the lands specified in the following schedule.

SCHEDULE

District: SOLAN *Tehsil:* SOLAN

Village with H. B. No.	Khasra No.	Area in Acres
BARIARI H. B. No. 93	500	55

By order,
P. K. MATTOO,
Secretary.

उप-नियन्त्रक, मुद्रण तथा लेखन-सामग्री, हिमाचल प्रदेश, शिमला-3 द्वारा मुद्रित तथा प्रकाशित ।